P.O. Box 291
Portage, WI 53901
April 21, 2009

Mail Stop Appeal
Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

re: U.S. APPLICATION NUMBER: 10/680830
FILING DATE: 07OCT03
NAME OF APPLICANT: Timothy Raymond Cronin
TITLE OF INVENTION: Certified protection from subliminal content for recordings.

Dear Appeal Board:

This Appeal Brief has two parts. The first part refers to my utility patent application being lost at the USPTO and resulting problems with its application number and application date. The second part refers to the final rejection of my utility patent application wherein which my response to the non-final rejection of that application was not given a careful reading.

PART ONE

In his final rejection letter the Examiner writes "The fact pattern set forth in lines 18-40 on page 6 of the response filed 11/4/2008 is not understood..." (see: Image File Wrapper Document Code [hereinafter Doc. Code] CTFR; Mail Room Date [hereinafter the document's Mail Room Date will be listed right after the Doc. Code separated only by a semicolon] 02-23-2009; p.2, item 2]. He apparently wasn't familiar with the documents about this Case which were in the Image File Wrapper. This I didn't anticipate otherwise I probably would have brought to his attention the specific references.

Below, in the first part of this letter, I have explained these problems by referring to the Image File Wrapper contents in detail.

There have been problems with my application from the start -- Problems I was not initially aware of.

On 28JUL05 my application was said to have been probably "lost in cyberspace" (see: p. 1, para. 4 of my letter to the USPTO (Doc. Code LET.; 09-09-2005)). But long before that, on Friday 07NOV03, I contacted the Recording Industry Association of America (RIAA) at phone # (202)775-0101. I called twice that day and talked with someone who identified himself as "A.J." I hoped the recording industry would implement my patent application's claim for our mutual benefit.

We talked for about an hour, I think, with one of the calls from about 10:00 to 10:20 in the morning. I explained to him my patent application's claim and made sure he understood that I had a patent pending, but it was something that I thought the recording industry would benefit from implementing. A.J. seemed to understand what I was talking about, but was dismissing apparently owing to his concerns that implementation of my application's claim would impugn other manufacturers who did not certify protection from subliminal content for recordings.

He seemed to anticipate legal trouble. I tried to reassure him that the point of producing higher quality products was not to asperse existing products. Instead, it was to make better products available for sale to the public.

Then I complicated the matter by an error in my letter dated September 5, 2005 -- This error I tried to correct with my letter dated September 30, 2005. Please see paragraphs 1-4 of that letter (Doc. Code Let.; 10-04-2005). Later, in a letter dated October 26, 2006 I offered proof that my application was made on 07OCT03 and that the application number was 10/680830. Please read that short letter and look at the photocopies of the postcard and Express Mail Customer copy which I'd sent with it (Doc. Code LET.; 11-02-2006).

After I learned that my application had been lost I contacted the USPTO about what to do. I was asked to send a copy of my application. I sent that copy along with a handwritten letter (dated August 12, 2005, and a copy of which is included in my September 5, 2005 letter mentioned above (see:Doc. Code LET.; 09-09-2005)).

Also, please see page 3, third full paragraph of my September 5, 2005 letter (Doc. Code LET.; 09-09-2005) wherein I reaffirmed what I had told Mrs. Robinson. That is, that what I sent her was not <u>an</u> original application, but a copy of my earlier application. She had suggested that I send that copy of my application via USPS Express Mail which I did (Express Mail # ED 659185884 US) [PLEASE NOTE: this is <u>NOT</u> the USPS Express Mail number used to mail my original and one and only application in October of 2003!].

I mailed that copy as per her instructions to:

Mrs. Marcia Robinson
South Tower Building, Room 437 A
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313

But what happened is that she filed it as a new application (see: Doc. Code TRNA; 08-12-2005; pp.1&2. Note the USPTO marks in the upper right margins of those pages: it's a new application number which showed up after that numerous times. For examples of this please look at the application number entries on the first pages of the following File Wrapper items: Doc. Code PEFN; 08-31-2005
Doc. Code PEFR; 09-09-2005
Doc. Code IMIS; 10-20-2005
Doc. Code PEFR; 10-20-2005.
And the wrong application date is still showing up (see, e.g., Doc. Code CTFR; 02-23-2009; p.1).

Subsequently I had to respond to missing parts requests. One was for an Abstract of the Disclosure. And I included that with my letter dated September 5, 2005 (Doc. Code LET.; 09-09-2005). I responded to another missing parts request (see: Doc. Code OATH; 01-05-2006). And to the fee request (see: Doc. Code PEFR; 10-20-2005 which includes my letter dated October 19, 2005 wherein which I state in the last paragraph of that letter that I've enclosed the fees requested).

But in an effort to prevent my application from appearing to have been abandoned I, also, had to respond to a missing parts request due to the unsigned copy's Declaration: that copy of which I'd <u>deliberately</u> not signed because it was <u>not</u> a new application. And I had to respond to a request for basic filing fee money (see: Doc. Code PEFN; 08-31-2005). Please note that on the first page of the document which is located at Doc. Code PEFR; 10-20-2005 a printout appears under the title word NOTICE which suggests that the money which I'd sent had been received. This unnecessary payment was later refunded to me as the copy of "notice to check recipient" with my letter dated June 14, 2008 shows (see: Doc. Code LET.; 06-19-2008).

Note, too, that with my letter dated October 19, 2005 (see: Doc. Code PEFR; 10-20-2005) I included a National Exchange Bank & Trust certified copy of the check I'd used to pay the original filing fee. Yet, in a USPTO Decision of Petition (see: Doc. Code PETDEC; 10-18-2006) on p.2, in the fourth, fifth, and sixth sentences of the last big paragraph on that page it says "Applicant argues...his application...was <u>resubmitted</u> [emphasis added] on August 12, 2005." I <u>never</u> argued that my application was resubmitted. Instead, just the opposite!

Consequently I sent a letter to the USPTO dated October 26, 2006 (see: Doc. Code LET.; 11-02-2006) with which I included a copy of my postcard originally sent with my application. And a copy of the USPS Express Mail Customer Copy from the mailing of my application on October 7, 2003. But I, also, enclosed copies of the first pages of USPTO letters sent to me and variously dated 12/23/2005, 01/11/2006 and 04/20/2006 which had my application's correct application number and application date on them.

This I hoped would fix the mix-up regarding my application number and application date. I then waited for an examination of my utility patent application, and I received a check from the USPTO in June 2007. Please see my letter dated June 14, 2008, p.1, para. 1 and the photocopy of the "notice to check recipient" (both at Doc. Code LET.; 06-19-2008).

About a year after I received that refund check I wrote a letter to the USPTO dated June 14, 2008 (same letter mentioned immediately above; Doc. Code LET.; 06-19-2008), in which I asked for consideration of some matters and movement towards the end of being granted a patent if possible. Please read that short two page letter.

That letter seems to have led to the initial examination of my patent application by Examiner Harvey. But he was using the incorrect filing date (see: Doc. Code CTNF; 10-14-2008). So I asked him in my letter dated October 27, 2008 (Doc. Code A...; 11-04-2008) on p. 6, in the last two sentences of the second-to-last big paragraph, whether or not my earlier submission of an expanded Abstract of the Disclosure (see: Doc. Code ABST; 09-09-2005) would have changed my original patent application date. But I didn't think it would since that submission was in response to a missing parts request (see: Doc. Code PEFN; 08-31-2005). Examiner Harvey did not respond to my question in his final (status action) rejection letter (Office communication) (Doc. Code CTFR; 02-23-2009).

In my letter to the USPTO dated October 27, 2008 (Doc. Code A...; 11-04-2008) in the second half of the second full paragraph on p.3, I mention the pitfall of endless checking and double checking. I've certified that the photocopy of the postcard with my patent application's application number and application date and the USPS Express Mail Customer Copy and the Portage Post Office receipt are true copies. And the National Exchange Bank & Trust Customer Service Representative certified that the copy of my original check to the USPTO is true.

As the saying goes "it's turtles all the way down." And I point this out not to be facetious nor peevish, but to transition to the other salient reason I've made this appeal.

PART TWO

I wrote a letter to the USPTO dated June 14, 2008 (Doc. Code LET.; 06-19-2008) to ask that my application be examined. And in that letter I tried to address what I thought might have been issues causing what seemed to me to be a delay in the processing of my application. Then in the fall of 2008 I received a non-final rejection letter from the Examiner (Doc. Code CTNF; 10-14-2008).

In response to that non-final rejection I sent a letter dated October 27, 2008 to the Examiner in which I felt that I had adequately answered each of his objections (Doc. Code A...; 11-04-2008). But in February 2009 I received a letter from the Examiner (Doc. Code CTFR; 02-23-2009) in which his rejection of my patent application's claim was final. But it was as if the Examiner hadn't carefully read my response to his non-final rejection.

He takes a section of my response to his non-final rejection out of context (please see: Doc. Code CTFR; 02-23-2009; p.2, para. 1.B) as if he hadn't noticed that in the several prior lines I state explicitly that what follows was not what he seemed to take it to be. And that's a fact. Please see: Doc. Code A...; 11-04-2008; p.4, lines 17-20). And twice in that same letter, on p.4 in the top three lines and on p.5 in the second-to-last paragraph top two lines, I state what my claim's method is.

And please note that in the Examiner's final rejection letter on p.4, Item 4 (see: Doc. Code CTFR; 02-23-2009) the Examiner repeats what he'd written in his non-final rejection letter to me (see references to my letter dated 6/19/2008 in 4.B and 4.C). With the exception of the numbering of the main outline headings the final rejection letter's pp. 3-9 contain the same text as the non-final rejection letter's pp. 2-8. And as well and taken together the final rejection letter's pp.10-11 contain the same text as the non-final rejection letter's pp. 9-10. Consequently, by simply repeating the text of his non-final rejection letter the Examiner makes on those pages no reference to my response (Doc. Code; A...; 11-04-2008) to that non-final rejection letter.

Pages 12 and 13 of the final rejection letter do not relate to the examination of my application's claim. Page one is a summary. Only Page 2 is new. But on p.2 in Item 1.C) the Examiner appears to be focused on trying to determine what method my claim posits for verifying. But that is not what my claim is about. My use of "method" in my response to the non-final rejection (see: Doc. Code A...; 11-04-2008; p.2, para.1, sentence 1 (see also: p.3, fourth full paragraph)) was in accordance to a dictionary definition and which is a

meaning broader than that which would be constrained by the concept "active steps of manipulation" (please see: Doc. Code CTFR; 02-23-2009; p.2, item 1.A, first five sentences). That dictionary definition is: "A means or manner of procedure; especially, a regular and systematic way of accomplishing anything" (from The American Heritage Dictionary of the English Language).

Also on p.2, item 1.D of his final rejection letter the Examiner seems to confuse certify and verify. These I discuss exhaustively in my letter (Doc. Code A...; 11-04-2008; in particular p.3, all but the last two paragraphs of p.4, and on p. 2 in the fourth paragraph I explain that by definition "Certification is the record of verification").

I ask you to read that whole letter (Doc. Code A...; 11-04-2008) dated October 27, 2008. In it I tried to use language with precision. That's why on page four in the first line of the first paragraph and in the last line of the second paragraph the word order of "certified" and "verifiably" are respectively reversed. This word order reversal is not accidental; instead, I was attempting to convey specific meaning in each case, while expanding the context of the use of those words. And that, precisely to enhance the clarity of what I was writing.

I believe my patent application claim's method is a new and useful composition of processes. A method which encompasses well-known conceptual processes which are essential to it. Processes such as certification. One can imagine new technologies being discovered which change and enhance the practical viability of certification in the future.

My patent application's claim clearly is not, e.g., about defeating subliminals (Please see: Doc. Code A...; 11-04-2008; p.2, para.3, lines 24-31). Yet the Examiner seems to have taken that view due to my use of "protection" in the Title of Invention. The Examiner's effective re-citing of Jandel on pp.2&3 and Mori on p.7 of his final rejection letter (Doc. Code CTFR; 02-23-2009) suggests that he did not carefully read my response to his non-final rejection letter. Both of those patents in no way interfere with my patent application's claim. I've shown why in my responses to each of the Examiner's non-final items of objection which were relevant to that issue.

And the Examiner didn't consider the three appendices to my letter dated October 27, 2008 (Doc. Code A...; 11-04-2008). See Doc. Codes APPENDIX; 11-04-2008. He wrote that this was because I had not provided copies of the articles which I was referring to in my lists of references (see Doc. Code. CTFR; 02-23-2009; p.2, item 1E). I didn't know that sending

copies for this purpose was required, but to avoid getting permission from the many copyright holders I've enclosed with this appeal the originals of those articles. Those articles are in a large envelope on which I've put my return address and sufficient postage so that you can if possible return them to me after you've reviewed them.

Those appendices were meant to substantiate these three topics: Appendix A: pursuit of technological fixes to intellectual property theft
Appendix B: pursuit of legal and political fixes to intellectual property theft
Appendix C: losses due to intellectual property theft, and potential market size

Nevertheless, short quotes from a number of the references were included in the appendices which the Examiner was free to consider. But he wrote that he did not (see: Doc. Code CTFR; 02-23-2009; p.2, item 1.E). The Examiner, also, seemed to have been looking for something tangible and simple. Yet my patent application's claim is directed at something tangible though not simple.

In my response to the Examiner's non-final rejection letter I wrote (see: Doc. Code A...; p.4, lines 36-39) that "My patent application's claim...is essentially about a manufacturing process improvement which will result in superior product quality, which improvement cannot be stolen" because my hope was and remains that subliminal-free products be made for the consumer market. In which case other processes besides strictly manufacturing processes necessarily were and are, also, contemplated as part of the method of implementing my patent application's claim.

Earlier this year, during a broadcast of American Public Media's "Marketplace" show, compact disc (CD) sales were said to have been declining by 20% per year. And that that deficit in CD sales has not been made up by online sales.

Still, the recording industry with its hundreds of billions of dollars in sales each year and its many billions of dollars of losses each year due to intellectual property theft has not made as far as I can tell certified verifiable subliminal-free recordings available to the public. Evidently no one yet has tried to obtain a patent for a claim as was put forth in my original patent application. And as I explained in my letter to the USPTO dated June 14, 2008, I wasn't trying to get a patent for an "idea" (see: Doc. Code LET.; 06-19-2008; last two paragraphs of p.1 and the first two paragraphs of p.2).

My patent application's claim is not amenable to being broken down into numbered sub-parts. The words <u>certified</u> and

Verifiable are not synonyms. And "Certified verifiable" is a feature of my patent application's claim the details of implementation of which are not the subject of that claim (please see: Doc. Code A...; 11-04-2008; p.2, first sentence of last paragraph; and p.3, para. 4).

In his final rejection letter (Doc. Code CTFR; 02-23-2009) the Examiner on p.2, item 1.B uses "appears" (in the first line of item 1.B) and "...the [emphasis added] process/method..." (in the second line of item 1.B). The Examiner notes that these "..."steps" are not recited in the pending claim..." (from third line of item 1.B). I reiterate here that they were not "in the pending claim" because they are not the claim. They were in the Specification (please see: Doc. Code SPEC; 08-12-2005; p.3, item 0006)

Also on page two, but in item 1.A of his final rejection letter the Examiner refers to 35 U.S.C. 101 and assumes ".."active steps of manipulation"...comprise said alleged method/process..." and thus are "...required of method/process claims." The Examiner then writes "...such cited/argued steps are not tied to a machine/apparatus" in the last sentence of item 1.B on p.2 (Doc. Code CTFR; 02-23-2009). In that same document on p.5., item 5 shows that 35 U.S.C. 101 separates "machine" and "composition of matter" from ""process" and manufacture." This suggests that the U.S. does not limit itself to patenting only processes and manufactures each conceptual part of which is tied to a specific material object instead of to numerous, currently available and to conceivably yet-to-be-discovered homologues.

I believe that my patent application contains language the meaning of which could only be pried open coercively. And sales of subliminal-free recordings could not be expected to overlap completely with the current market. Instead, it more likely would be a large dollar value niche market.

Finally, the USPTO's core function seems to be to promote technological ramification. If so, that goal might at first glance seem to be at odds with creating markets based on product purity. War, of course, does tend to spur technological growth. But what point that growth if only for more war, especially since wars can be lost?

Thank you for your consideration of this appeal. I look forward to hearing from you about your decision.

Sincerely,

Timothy Raymond Cronin

Timothy Raymond Cronin

"Social network" is so 2005. Now MySpace cofounders Chris DeWolfe (*left*) and Tom Anderson are calling their site a "social portal."

Its ability to ascend steep hills is most appreciated on the way down.

myspace, the sequel

WITH FACEBOOK SURGING, COFOUNDERS Chris DeWolfe AND **Tom Anderson** HAVE GONE BACK TO THEIR ROOTS—**MUSIC, POP CULTURE,** AND A PROVEN **CASH-FLOW** AD MODEL—TO SPUR A NEXT PHASE OF GROWTH. WILL THAT BE ENOUGH FOR BOSS RUPERT MURDOCH? BY **Ellen McGirt**

PHOTOGRAPHS BY **Jill Greenberg**

CHRIS DEWOLFE, THE LANKY, SHAGGILY HIP CEO OF MYSPACE, IS HOLDING HIS LAST MEETING OF THE DAY FROM A PRONE POSITION, A COLLECTION OF LONG LIMBS STACKED ON A TINY RED LOVE SEAT. THE EARLY EVENING POWWOW, TAKING PLACE IN THE CRAMPED OFFICE OF HIS SENIOR COMMUNICATIONS DIRECTOR, IS INTERRUPTED WHEN I COME CRASHING IN TO SAY GOOD-BYE.

DeWolfe can be forgiven for putting his feet up. Along with cofounder and MySpace president Tom Anderson, he has lived through a lot of long days lately—about four-and-a-half years' worth since the site first launched. In fact, a slight defensiveness hangs in the air here about the site's age. Not that it is too old, but rather that it is younger than most Web watchers seem to remember. Everyone I talk to at MySpace HQ in Los Angeles, from DeWolfe and Anderson on down, mentions the four-and-a-half-year figure, as if to remind me that their biz is only a month older than their chief social-networking competition, the upstart some 350 miles to the north, Facebook.

It's understandable that the MySpace folks would feel a little slighted by all the attention Facebook has been getting. It was MySpace, after all, that grabbed headlines in 2005 when Rupert Murdoch's News Corp. acquired it for $580 million. It was MySpace that proved social networking could be a mass medium, attracting 10 million users, then 20 million, then 50 million—prompting Murdoch to crow about its "meteoric rise"—back when Facebook was still a college-focused niche player. Yet over the past year and a half, Facebook has quickly gained traction and fans, its fresh-faced CEO piling up TV appearances and magazine covers (including FAST COMPANY's in May 2007). Suddenly, Facebook's worldwide user base surpassed MySpace's in size. Then on June 30, MySpace's financial reputation was dinged when Fox Interactive Media (FIM), the News Corp. division that houses the site (along with Photobucket, Fox Sports Interactive, and other properties), closed out its fiscal year without hitting its revenue target.

I visited the next day, but the MySpace management team wasn't talking about numbers. It certainly wasn't talking about Facebook. Instead, DeWolfe, Anderson, and four other senior staffers—including chief technology officer Aber Whitcomb, hired by DeWolfe "nine years and four companies ago" (he built the original MySpace site in 30 days) and 27-year-old chief operating officer Amit Kapur—spun out a vision of unwavering ambition and optimism. *Hey, did we mention that we're profitable? And that we have 115 million monthly visitors worldwide? That we're outpacing Gmail and Hotmail in messages sent? And giving YouTube a run for its money in video downloads?*

During my rounds at the offices—which will be traded in next June for a new 300,000-square-foot FIM facility in Playa del Rey, which the company claims is the biggest real-estate transaction in L.A. in 25 years—the crew opened up about the pros and cons of working for Murdoch. They also laid out a dizzying array of new initiatives, from an imminent site redesign to major marketing alliances with big-name brands. They practically strutted about an unprecedented new foray into the music business, set to be rolled out in early fall, and revealed that MySpace is no longer a social network at all, but—wait for it—a "social portal": a global, content-rich hub with a social component. The MySpacers weren't shy about touting the advantages they feel they have over Silicon Valley stars such as Google and Apple. They weren't shy about much of anything, actually (except their own ages, which DeWolfe and Anderson wouldn't confess). In their view, they have come farther, faster than almost anyone these days gives them credit for. In many ways, they are right.

SEVERAL HOURS BEFORE DeWolfe's collapse on the love seat, I sit down for lunch with him and Anderson in a sunny corner conference room. Anderson arrives late and inhales a steaming tin of cheesy Mexican goodness before beginning to speak; DeWolfe picks at a salad, then abandons it to better connect and chat. He is an easy talker, radiating an "I've been everywhere, man" vibe in the best sense—cool, calm, with a low center of gravity. It seems odd, sitting with them, that Anderson is the more famous of the

Previous spread: Styling: Brian Primeaux. Prop styling: Luca Ognibene. Grooming: Meghan McClain.
This spread: Photograph: Baerbel Schmidt/Contour by Getty Images

two. He is everyone's first "friend" upon joining MySpace and has become the de facto face of customer service, routinely alerting users to changes and problems through his MySpace blog. He's also a formidable pollster: When he asks members for feedback, he has been known to get some 20,000 responses—in under 10 minutes. Anderson has 237,991,950 friends on MySpace as of my visit; DeWolfe has barely 200. "I keep a lower profile," DeWolfe says simply.

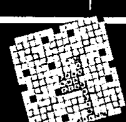
The two men talk about their roles in the company. "I'm the one who's more of a jerk," says Anderson, pushing aside the wreckage of his meal. "I seem quiet. But when I get upset, I talk too loudly. I'm sort of an alarmist." He laughs, while a slow grin creeps across DeWolfe's face. "Chris is able to calm everybody that I upset in my outbursts."

It quickly becomes clear why DeWolfe is the CEO, the one who works with advertisers and sponsors, cutting the deals that bring in the money. "I have a very negative attitude toward business and businessmen," Anderson says, a little too loudly. "I wouldn't really fit in a corporate structure if Chris weren't there to shield me from it."

Both founders are full of pride for the business they have built—and are still building. They see the recent revenue-growth shortfall as merely a distraction from the real news: the absolute performance MySpace delivers. "There are only three or four companies in the world that have our type of reach," says DeWolfe. FIM may have missed its whopping, Murdoch-mandated $1 billion revenue target in June, but the unspoken defense is that MySpace alone contributed the vast majority of the $900 million that did come in. That's three times even the most optimistic estimates of Facebook's performance (although as a private company, Facebook does not release financials).

MySpace seems too adolescent—too ADD—to be such a money machine. But when you peel back the beeping, blinking veneer of its user interface, the site's underlying business model is surprisingly muscular. MySpace was conceived in the overripe petri dish of the Los Angeles entertainment and music scene, where creativity is prized and voyeurism of all kinds is considered a perfectly normal way to have fun. If the highly earnest Facebook emphasizes the efficient sharing of personal information and labors mightily to make sure that people are who they say they are on the site, MySpace has always had a looser vibe, setting users free to be a more stylized—even fictionalized—version of themselves. And if Google craves an organized world to help you find what you

News Corp. bought MySpace for $580 million in 2005. As bosses go, **Rupert Murdoch** is hypercurious—and a little scary.


FACEBOOK AND MYSPACE, HEAD-TO-HEAD —*J.L. August*

	facebook	myspace.com
TAGLINE	"A social utility that connects you with the people around you"	"A place for friends"
LAUNCH DATE	February 2004	January 2004
EARLY ADOPTERS	Harvard students	Employees of eUniverse (later Intermix Media)
OWNERS	CEO Mark Zuckerberg, Microsoft, VC firms including Accel Partners and Greylock Partners	News Corp., which bought Intermix Media in 2005
ORIGINAL LEGAL PROBLEMS	Sued by founders of ConnectU, who claimed that Zuckerberg stole their idea. The suit was settled in February.	Founder Brad Greenspan claimed in a lawsuit that News Corp. paid too little for MySpace. The suit was dismissed.
WORLDWIDE VISITORS (MAY 2008)	123.9 million, up 162% from May 2007	114.6 million, up 5% from May 2007
U.S. VISITORS (MAY 2008)	35.6 million, up 34% from May 2007	73.7 million, up 7% from May 2007
LEGENDARY TIME WASTERS	Scrabulous	Music and blogs
FAMOUS FEATURES	Poking	Your friend Tom
SITE-MADE CELEBRITIES	Mark Zuckerberg	Tila Tequila
BIG-NAME USERS	Lily Allen, Al Franken, and Lindsay Lohan have personal pages.	Lily Allen, Jessica Biel, Paris Hilton, and Jenna Fischer blog.
TRASH TALK	*Mark Zuckerberg on MySpace*: "We don't view ourselves as a traditional media property or media portal, which I think is how MySpace would define themselves."	*Rupert Murdoch on Facebook*: "They've not monetized as well as us.... They've done a great job at being the flavor of the month."

seek more effectively, MySpace wants you to stumble around and discover things you didn't know you were looking for. In fact, MySpace's business depends on that kind of serendipity and the commercial juices that swirl around it.

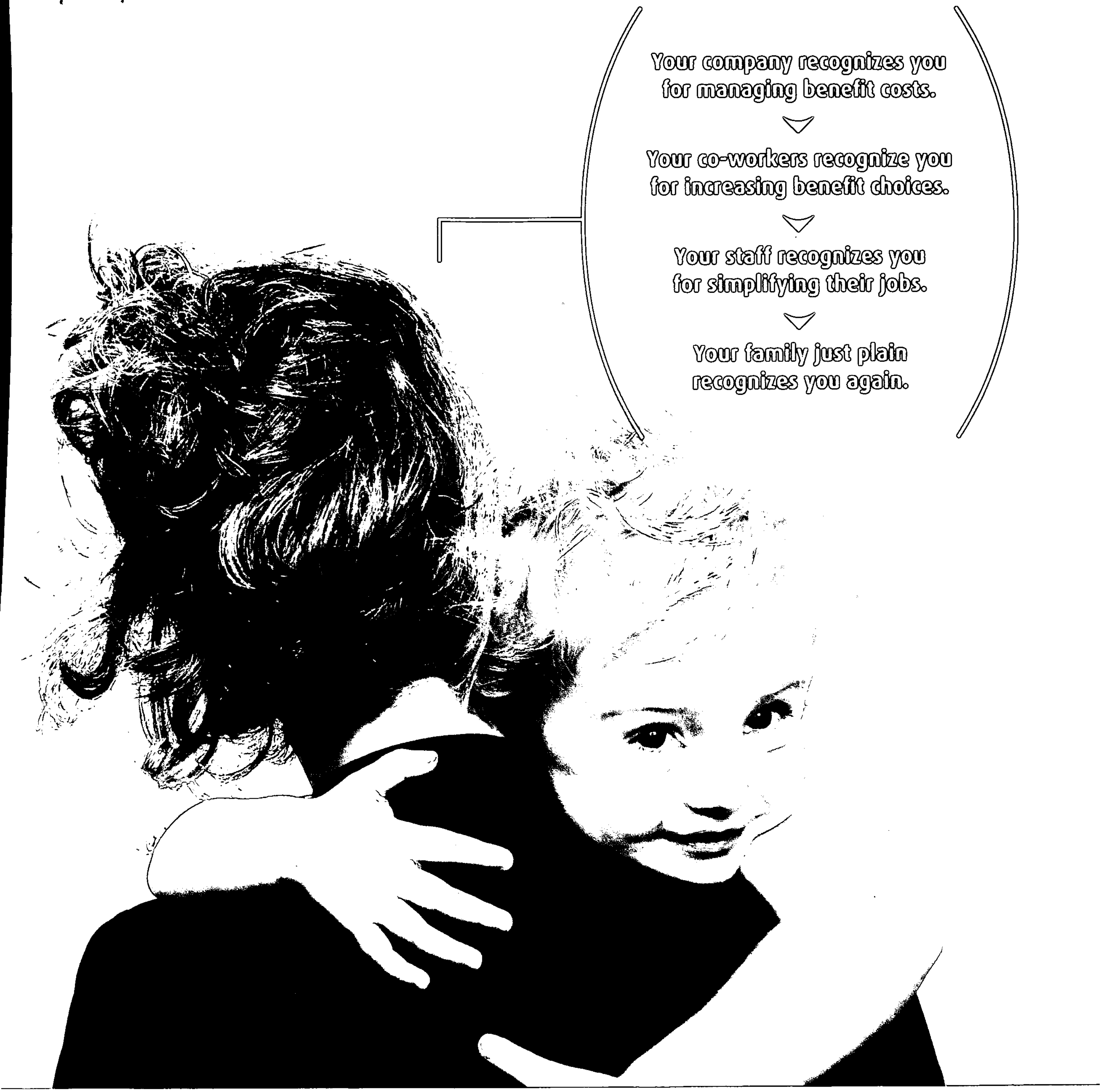
Overall, the two founders insist, life is good in the house of News Corp. "I don't think you can name one company that was acquired where the founders were still there after three years," says DeWolfe. Anderson agrees: "We've never felt cornered or pushed into something we didn't want to do." But clearly having Murdoch, along with News Corp. COO Peter Chernin, at your elbow can be a complicated experience. "When we told Rupert we had launched in the U.K. and were planning on three more international markets," DeWolfe recalls, "Rupert said, 'Why not make it 13?'" DeWolfe asked for more staff and had a toehold in 13 countries about 60 days later. (MySpace now operates in 29 countries.)

Murdoch and Chernin both approve every MySpace budget and weigh in often—sometimes to jarring effect. At the All Things D conference last year, Chernin publicly admired Facebook. "I find it a bit more utilitarian than MySpace," he said, adding that MySpace has always been a "chaotic environment where anything goes." Then interviewer Kara Swisher recalled News Corp.'s controversial April 2007 banishment from MySpace of popular photo-and-video application Photobucket, which had been embedding advertising in its own product. Chernin replied, "We would not allow anyone else to create an advertising platform on our backs," a common practice on Facebook. Widget developers in the audience—who had been waiting to do just that at MySpace—were not amused. (FIM later bought Photobucket for a rumored $250 million and opened up its platform this past February.)

Murdoch, for his part, has a habit of popping in at MySpace—by phone or in person—largely unannounced. Jeff Berman, a long-ago D.C. public defender whose unlikely career led him to become MySpace's president of sales and marketing, points to the couch in his office and tells me, "Last time Rupert was here, he sat right down, put his feet up on the coffee table, and just asked me what I was doing." Berman answered. "Then he asked me why I was doing that instead of all the other things I could be doing." On another visit, Murdoch wandered over to a junior developer, pulled up a chair, and got an impromptu lesson in coding. "He was so inspired that Rupert took such an interest," says the kid's boss, senior vice president of technology Jim Benedetto, "that he basically didn't leave the office for four days." Inspiration and fear. Such a fine line.

HATEVER ROLE MURDOCH MAY play in motivating them, Anderson and DeWolfe know that if they're going to hit their revenue numbers going forward, they need to better exploit MySpace's strengths over the competition. In June, for example, Anderson and DeWolfe created an aggressive new "takeover" feature on their home page, which gets some 45 million views a day—a shiny bit of advertainment offering marketers a "more creative palette" with which to burn their messages into users' skulls. "You can own the page, whether you're McDonald's, Taco Bell, or Sony with *Hancock* [the recent Will Smith vehicle]," says Berman. "Our users look at you as content, while you're slapping them in the

Photographs: Time & Life Pictures/Getty Images (Harvard student); Daniel Acker/Landov (Zuckerberg); GSO Images/Getty Images (poking); John Kopaloff/Getty Images (Tequila); Douglas Johns/Getty Images (ice cream).



INTRODUCING SIMPLY UNUM® When you're creating a benefits plan, it's tough to please everybody. Or at least it was until we created Simply Unum. Bosses will like the way it keeps a lid on costs. Employees will be happy with its group and voluntary options. And HR will love how it makes their jobs easier. Visit unum.com/simplify to learn more. And get benefits that work for everyone. Including you.

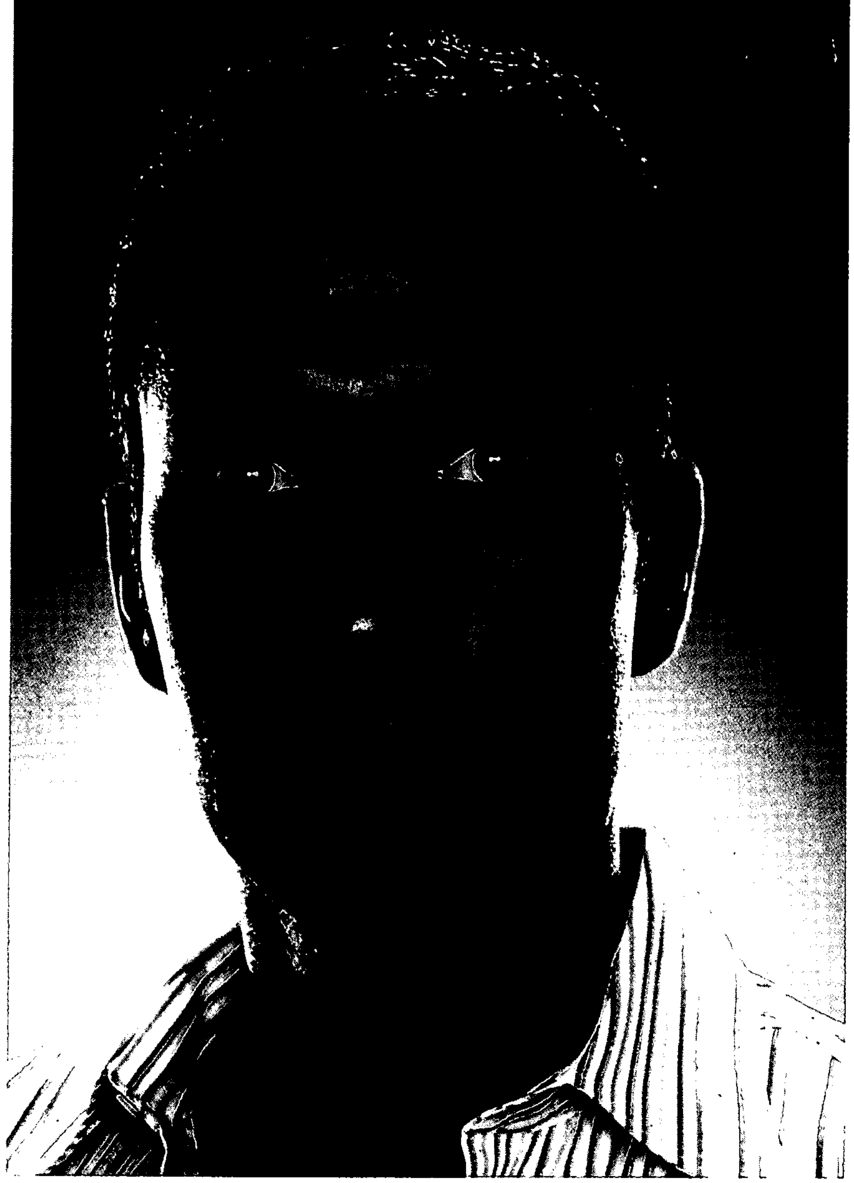
BENEFIT CHOICES ◦ COST-EFFECTIVE SOLUTIONS ◦ SIMPLIFIED ADMINISTRATION ◦ EMPLOYEE EDUCATION

unum℠

Better benefits at work.

face with this incredible brand message."

DeWolfe and his team have brokered a series of increasingly sophisticated marketing deals over the past several months that tap the site's music connections and point to the kind of leverage it can bring to bear. When McDonald's wanted to revive its classic "two all-beef patties" jingle, for instance, MySpace quickly wrangled up-and-coming talents in a range of genres to create their own versions, then opened up a contest for user-generated versions, including videos. For State Farm, which was looking to connect with younger customers, MySpace hooked the insurer up with a summer concert series called Projekt Revolution starring Linkin Park and other bands. The campaign runs many levels deep: from a branded presence at the concerts; to a sponsorship of the Projekt Revolution concert site, complete with live-concert footage (and no State Farm logos in sight); to a lightweight gaming site; to a strictly business State Farm site that can connect a Linkin Parker with an insurance agent.



Chief operations officer **Amit Kapur** came aboard MySpace three years ago as the "first business-development guy."

These new marketing efforts are part of the push toward reframing MySpace as a social portal. "Some 90% of online-advertising spending goes to big portals," DeWolfe says. "A much smaller chunk of money goes to more experimental buys or social media." That narrower definition is apparently not how MySpace wants to be seen anymore. "Now that we have such massive traffic on a daily basis, we're competing against Yahoo and MSN and to a smaller degree AOL," DeWolfe says. "And we're now in almost every single advertising proposal."

Anderson and DeWolfe say that while Google may dominate the search market, it isn't close to MySpace in terms of detailed information about what users do and consume—the holy grail of targeted marketing. MySpace's social-advertising initiative, called HyperTargeting, launched about nine months ago, and is its version of the "we know who you are and what ads you'll like" voodoo. "Click-throughs on these ads are up 300%," DeWolfe says. (The bad news: A newly social iGoogle debuts this summer, complete with personal news feed and gadgets that operate on OpenSocial.)

MySpace has other portal-like tools, too: At about 60,000 uploads a day, it is becoming a popular alternative to YouTube. (MySpace had some 55 million unique video viewers in May 2008, according to comScore Video Metrix, versus 82 million for YouTube.) Aside from user-generated videos, MySpaceTV has a huge universe of professional-grade content, from Fox shows such as *The Simpsons*; to mini-episodes of '80s sitcoms; to National Geographic programs; to an election site called MySpace Impact, which offers broadcast coverage from MSNBC and NBC. Early on, MySpace developed its own distributed "content-delivery network" for some of its video, "which really reduced our long-term costs," says CTO Whitcomb. That, no doubt, is something Murdoch appreciates.

BUT DEWOLFE AND ANDERSON consider the music business to be their ripest opportunity. About nine months ago, with 10 senior staffers in tow, they held a daylong off-site in L.A. to map out their future. They came away with a heady list of priorities: a significant site redesign, the long-awaited developer's program, and a beefed-up mobile business (an iPhone application debuted in July).

Music, though, quickly bubbled to the top of their to-do list. "When we first started MySpace, we were a site that a lot of bands, tastemakers, and influencers immediately gravitated to," DeWolfe recalls. For musicians trying to make a deal with a major label, or just fill up a venue, it became a perfect way to self-promote and digitally mingle with fans. (We can thank MySpace for accelerating the careers of Lily Allen, Sean Kingston, the Arctic Monkeys, and Dane Cook, among others.) But that area of strength had been allowed to atrophy. As DeWolfe says, "We hadn't innovated much around the music portion of MySpace in about three years."

After the off-site, DeWolfe put in a call to famed record producer Jimmy Iovine of Interscope to bat around ideas. Back in

2005, MySpace had partnered with Iovine to launch its own label, MySpace Records, which was set up to identify and recruit unsigned acts using the site. Iovine's unexpected but inspired suggestion: Call Doug Morris. "If you want to get into the business, you have to get Doug," says Iovine. The CEO of music label Universal, Morris was a most unlikely ally at the time—his company had a nasty copyright-infringement lawsuit pending against MySpace. But Morris also had another thorn in his side: Steve Jobs. Just a few months earlier, Morris had convinced two other major music labels, Warner and Sony, to try an end run around iTunes by launching their own subscription service. That effort had foundered, in part because of serious rumblings of antitrust concerns. As an outsider, DeWolfe had an opportunity to broker an agreement without triggering legal problems. The day after talking to Iovine, he got on a plane and flew to New York to meet Morris.

Morris listened. And over the ensuing months, DeWolfe and his team managed to bring Warner and Sony back into the mix, in a joint venture called MySpace Music. (Along the way, MySpace settled the Universal suit, coughing up a rumored $100 million.) On the face of things, the venture—which was slated to launch in September but at press time had yet to name a CEO—will offer the major labels their best hope for a significant competitor to Apple's iTunes store. DeWolfe is quick to say that isn't the point. "We didn't set out to annoy Steve Jobs or compete with him," he insists. "This was not conceived as an iTunes killer." Anderson points out that iTunes itself isn't much of a moneymaker, anyway: Apple is really a hardware company, not a media company, he says, even if iTunes does control about three-quarters of the digital download market. And Jobs has burned a lot of bridges with the labels, especially over his reluctance to embrace variable pricing—charging more for newer or more popular music. MySpace may not want to kill iTunes—it says its music site will actually boost iPod sales—but the labels wouldn't cry if it happened.

Although technically a separate company, MySpace Music is very much DeWolfe's baby, and its CEO will report to a board that reports to him and Anderson. The new site promises to let people listen to and share streaming songs from a full catalog of music for free, as MySpacers do now with video—but also create playlists and buy ringtones, merchandise, and concert tickets. And of course, buy music. The majority of MySpace Music's tracks will be offered without digital-rights management, which will allow them to play on an unlimited number of devices, including the iPod. And expect variable pricing. The idea is to create an environment where people will buy more music rather than steal it.

Bits and pieces of MySpace's music model can be found in other places—such as iMeem, Pandora, iLike, Last.fm, Live Nation, and, yes, even Facebook. But once you factor in MySpace's distinctive mix of entertainment content and social-networking power, the proposition gets more interesting. As Michael Nash, EVP of digital strategy and business development for Warner Music, puts it, "Unlocking the social value in the context of an online community is one of our most important priorities." Nash, who is on the board of the new venture, worked with MySpace in its pre-Murdoch days, developing promotions with acts including REM. "About 20% to 30% of total traffic on MySpace is music traffic," he says. "We saw that lightning in a bottle, the social interaction around music and fans."

For Nash, the MySpace deal may be just the thing to save the music industry from destruction, at least for a while. "The traditional music model has really already sort of expired," he admits. "We were seeing tremendous value in our content, but not a lot of revenue being developed." The dream: As users begin to organize music they like into streaming playlists that can be shared with friends (and that other users can vote up, Digg-style, or subscribe to), the computer becomes a community-generated radio. Supported by advertising. And with the already existing MySpace swirl around celebrities and events, the industry envisions hordes of fans flocking to concerts, which are much easier to profit from. "We needed a completely different business model to unlock that value," Nash says. He admires DeWolfe and the MySpace team for uniting competitors into a venture benefiting all. Rupert's bags of

Pop tart **Jessica Simpson** in Kuwait with MySpace's ubiquitous "Tom" *(right)*

Photograph: Frank Micelotta/Getty Images

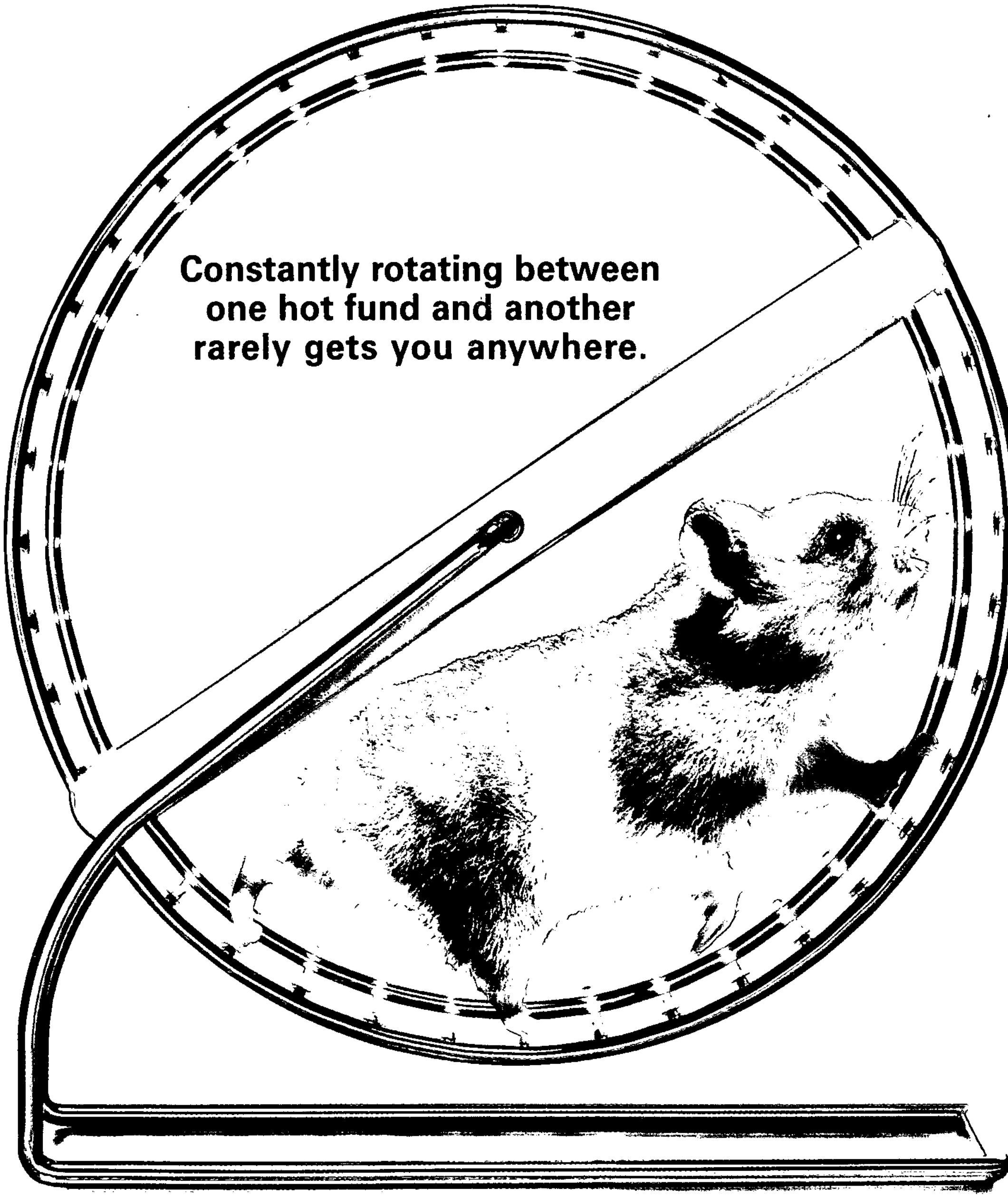
these brands are made for myspace

Harley-Davidson
After the success of the Operation MySpace concert in Kuwait, featuring Jessica Simpson and the Pussycat Dolls, Harley jumped aboard to sponsor the event's home page and ongoing conversation in an effort to reach veterans.

McDonald's
"Big Mac Chant," the burger chain's pick-the-next-jingle contest on MySpace, garnered nearly 1 million page views in three weeks.

Cartier
The luxury brand sought out the tech savvy by launching a MySpace presence in eight countries. In June, it offered 12 exclusive songs from the likes of Lou Reed and Marion Cotillard, which were streamed on MySpace and available for free downloads at a Cartier site.

Simple Truth: Performance-chasing is a losing strategy



It's tempting. Just sell that hot fund when it's high, and buy into the next one when it's low. Unfortunately, doing this consistently is virtually impossible. So we recommend a much more sensible buy-and-hold strategy. And, when considering what to buy, you might bear in mind that more than three dozen Vanguard funds appear on the latest Forbes list of Best Buys.* By far the most of any fund family. Vanguard. The simple truth about investing.

www.vanguard.com

Vanguard®

Visit www.vanguard.com, or call 888-306-6127, to obtain a prospectus, which includes investment objectives, risks, charges, expenses, and other information; read and consider it carefully before investing. Investments are subject to market risk. Past performance is not a guarantee of future results. *Forbes' January 28, 2008. Forbes Best Buys combine good risk-adjusted six-year returns and low expenses (loads, overhead, and portfolio trading costs). Performance through December 27, 2007. Forbes is not affiliated with Vanguard or Vanguard funds.

cash didn't hurt, either: "That News Corp., a major media company with deep industry knowledge, has been there to monetize all of this really deepened our commitment."

As for the potential competitors, such as iMeem, who have built their businesses partly on the social networks—and have helped establish them as music destinations—Nash is coy. "You can assume that we're in discussions with all the significant players in the space, including Facebook, YouTube, iMeem." But, he says, "it's a competitive world. There's going to be some overlap, but you're not going to see a lot more joint ventures."

YSPACE HAS ALWAYS HAD ITS share of controversy—from disputes over ownership and valuation in the wake of the News Corp. deal to digs from tech purists about the, um, aesthetic variability that comes with letting people decorate their profiles with blinking, shiny things. Continuing problems range from the annoying (spam and service complaints) to the very serious (privacy and child-safety concerns).

From left, product-strategy guru **Steve Pearman,** sales and marketing president **Jeff Berman,** and technology chief **Aber Whitcomb**

For all the bravado and new ideas, MySpace still has significant challenges. Foremost among them is the relentlessly evolving Facebook, whose most recent comScore numbers show it widening the gap on MySpace to nearly 10 million worldwide visitors in May—124 million for Facebook versus MySpace's 115 million. And Google has no intention of ceding the social-portal space to the networks without a fight. Expect Steve Jobs to be an irritant, too. True, digital downloads accounted for only 10% of music sold last year, according to In-Stat, but while it may have its shortcomings, iTunes is deeply entrenched in the culture and will be hard to dislodge. ITunes has sold more than 4 billion songs since it was born (just a few months before MySpace) and today accounts for approximately 70% of digital music sold worldwide. Apple even dipped a toe in the social music market in 2007 with MyiTunes, a widget that lets customers share reviews and music on their Web sites or blogs.

And if it's obligatory to sniff a bit at Facebook for focusing on technology first and monetizing second, the opposite problem exists at MySpace: DeWolfe and Anderson have some real work to do on their site's architecture. "It's a big priority for us," says senior VP of product strategy Steve Pearman, a good-natured techie who walked me through the redesign plans as I worked my way through a huge tub of Twizzlers on his desk. He concedes the site has become a chore to navigate and laments an interface that was simpler once upon a time, before links and products barnacled on as the site rushed to grow. "How the hell did it end up looking like this?" he asks in all seriousness. "This is a terrible design!" Site improvements have already begun to appear, like a tabbed navigation bar to help shape the chaos. (Sort of like Facebook's tabbed redesign.)

As our lunch winds down on yet another endless summer day in Los Angeles, Anderson and DeWolfe take the time to wax philosophical over management and business in a noisy, competitive world. "We are a company that needs to move fast," says Anderson. Products need to be tweaked, sponsors need to be pushed to promote themselves in new, sometimes uncomfortable ways. Referring to himself, Anderson says there's an indispensable role for the gadfly: "It always helps to have someone who can say, No, we can do it faster this way, or We have to break the rules, even our own rules, to get things done." Break any rules lately, Tom? "There was something yesterday, actually." Anderson laughs, then shakes his head, "I better not go into any details." DeWolfe nods at his friend, flashes a half-smile, then slowly spins his chair to look out the window. "Some things are better left to the imagination," he says. FC

> Feedback: mcgirt@fastcompany.com

rates available from AT&T, with which Apple will sell the phone.

Then there is that missing keypad, which Apple replaces with a touch-screen version that is better than most. "The keyboard doesn't suck," Greengart says. But people like the tactile feedback of hard keys, which makes it easier to find and press the right one, and so far haven't embraced other phones without them. And getting the phone right is the most important thing, says Mike McGuire, an analyst at the market research firm Gartner. "It's first got to be a good voice box," he says. (More of the iPhone's pros and cons are at *www.usnews.com/iphone.*)

Branching out. Expectations—from consumers, investors, and industry analysts—are so high that if the phone is uncomfortable or the multimedia features beset with bugs, the hit to Apple's reputation could be severe. It seems forever ago, but Apple has stumbled, including with the Cube desktop and the Newton hand-held computer. Even a bug-free phone that makes gadget geeks weep would be hard pressed to make Apple's goal of 10 million sold by the end of next year. That's only 1 percent of the world market, but most of the world is buying cheap phones for $50 or less. One iPhone model in one market, even a market as big as the United States, won't do it, says Purdy at Frost & Sullivan. He says Apple will quickly need other versions to make its sales goal, perhaps even one with a keyboard that could appeal to corporate E-mail users.

The iPhone must also move quickly overseas. On the plus side, Europe and Asia already possess well-developed, high-end mobile-phone markets where consumers are more immune to sticker shock. Of course, that also means Europe and Asia have markets full of seasoned corporate competitors. Meanwhile, manufacturers like Samsung and Nokia are also readying new models for the U.S. market. Some may appear sooner than expected; Verizon, for one, is said to be planning a quick answer to the iPhone.

It's just part of a frenzy unleashed in recent months by the iPhone's pending arrival, a level of anticipation unmatched this summer, except perhaps for a story about a certain boy wizard. In thinking about the iPhone phenomenon, Jesse Drew, acting director of technocultural studies at the University of California-Davis, says he's reminded of his young son's fascination with Harry Potter and his longing for the ultimate in hand-helds. "Everybody," he says, "wants a magic wand." ○

Blu-Ray Wins a Battle in the High-Def War

Blockbuster snubs a rival, boosting Sony's format

By David LaGesse

Neither side is close to conceding, but the death match over which format will dominate the next generation of movie disks is swinging in favor of Blu-ray, the technology backed by Sony and most of the studios that produce the flicks themselves. Blu-ray was outselling Toshiba-backed rival HD DVD by 2 to 1—though sales for both are still slight—before recent word that Blockbuster, the movie retailer, would not bother stocking HD DVDs.

The move gave weight to predictions by Blu-ray backers that stores would begin to have a say. "Retailers are ultimately going to weigh in, because they only have a limited amount of shelf space," Disney CEO Bob Iger told analysts in May.

That's what drove the decision at Blockbuster, which said it would stock only Blu-ray disks in its next 1,450 stores to get high-def movies. HD DVD will still be available online and at 250 locations that Blockbuster used in testing rentals of both formats. "We found that, at this point, Blu-ray is worth the shelf space, and HD DVD is not," says Blockbuster's Matthew Smith.

Next up. The stakes for retailers and studios alike are massive: Which technology will replace the DVD? The DVD is a profit engine with yearly sales of more than $16 billion, but it's beginning to sputter; growth has fallen to the low single digits from double digits a few years ago. Sony and partners, including most big studios, pushed Blu-ray, while Toshiba and Microsoft backed HD DVD.

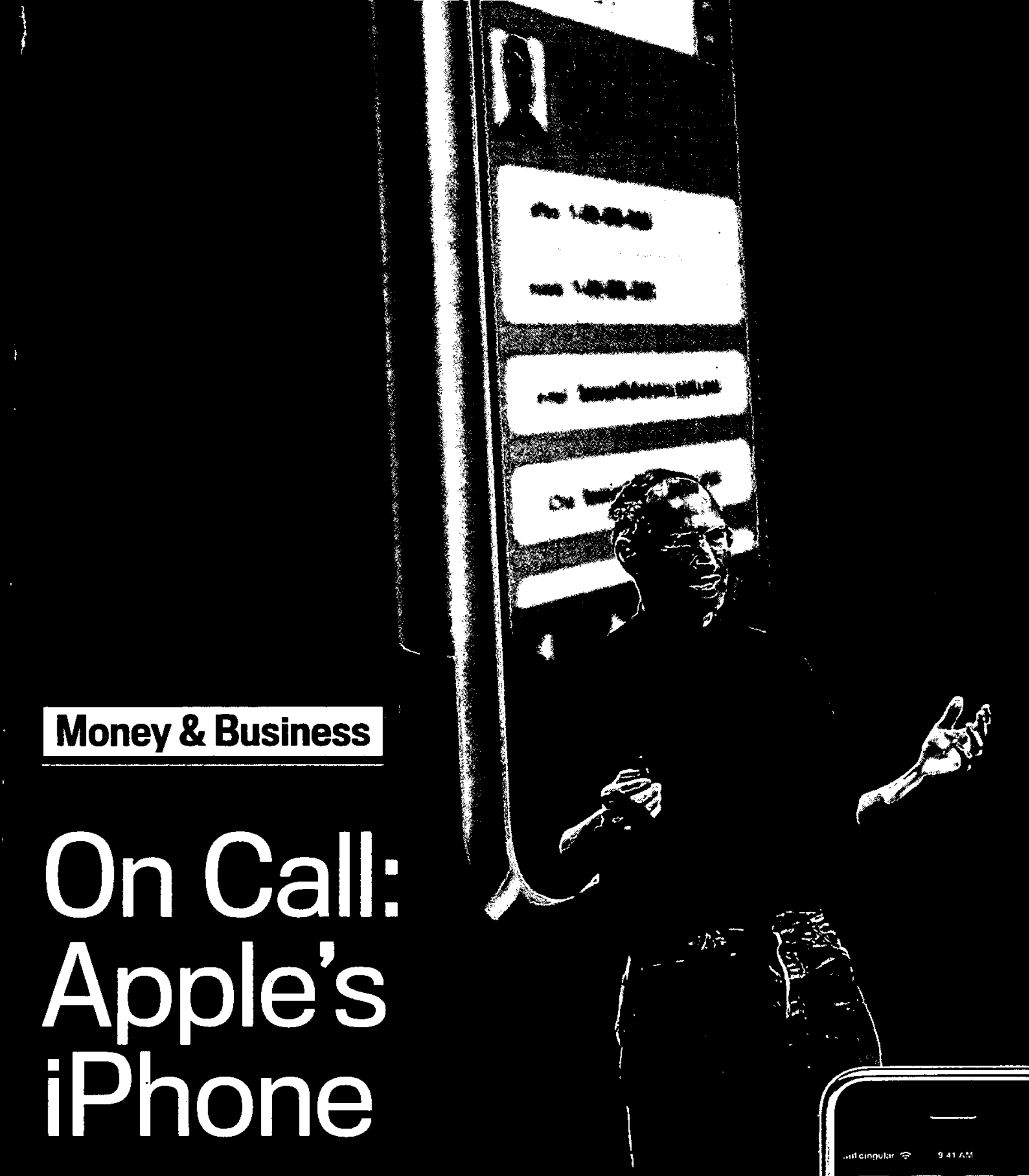
HD DVD advocates say it's too early to suggest either format has the upper hand. For one, Blockbuster's business is primarily rentals—sales of disks at retailers like Wal-Mart are more important, says Kevin Collins, spokesman for a group promoting Toshiba's format. And so far, the new high-def disks account for less than 1 percent of today's DVD sales.

Sony last year boosted Blu-ray by including the drives in its PlayStation 3 game console. That resulted in a steep, $600 price that has hurt its gaming sales but put Blu-ray players in about 1.4 million U.S. homes. Sony gambled that sales of Blu-ray disks would more than offset a loss in games share, says Michael Pachter of Wedbush Morgan Securities. The advantage might widen as studios loyal to Blu-ray have potential big sellers in *Spider-Man 3* and *Pirates of the Caribbean: At World's End.*

But the HD DVD camp notes it has sold about 150,000 stand-alone players, compared with Blu-ray's 90,000. Consumers with those players will eventually buy more movies than those with game consoles, Collins argues. Those Sony drives, the theory goes, will eventually get busy with PS3 games, which so far are lacking, and those consumers will rent fewer movies or buy a separate player.

Also, as sales volume picks up, the cheaper cost of producing HD DVD drives and disks could become more important. Already, Taiwanese manufacturers are racing to produce cheap HD DVD players under licensing deals with Toshiba. Toshiba now sells one for $300, versus $500 for the least-expensive Blu-ray. A $200 player would appeal to Wal-Mart shoppers, who also buy more than 40 percent of all DVDs. That would be a far bigger "get" than winning over Blockbuster. Then there is online movie rental giant Netflix, which has yet to pick sides.

The HD DVD folks have taken to suggesting the two formats can coexist, much as three game consoles share most of that industry's $12.5 billion in retail sales. They're talking less of vanquishing the competition. For now, at least, the smack is left to Blu-ray. ○



HIS BET. Apple CEO Steve Jobs presents his company's next big thing to a conference of Web developers.

Money & Business

On Call: Apple's iPhone

It's a pricey device with no keypad. But, hey, it's cool. Is that enough?

By David LaGesse

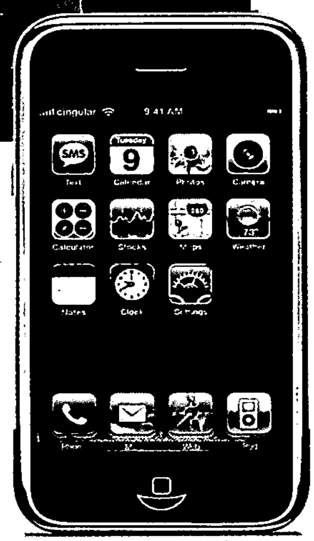
One button. For years, that's all Apple would allow on the mouse that accompanied its Macintosh PCs, arguing that more would complicate a system that stressed simplicity. Now it's one button on Apple's iPhone, a radical experiment in cellphones that has become a phenomenon before it has even been subjected to the ultimate test: consumers around the world.

It's unclear if the iPhone can meet Apple's ambitious goals, much less satisfy runaway expectations in an always hyped-up market. But there is no question that the iPhone, which is scheduled to be shipped to stores on June 29, has already had a tectonic impact. "You have to give them credit for shifting the way we even think about a phone," says Gerry Purdy, an analyst at the market research firm Frost & Sullivan.

Rivals are racing to match the device's new approach, which abandons traditional keys for a touchpad, opening space for a larger screen and elbow room for photos and video. Competitors hope to capture a slice of a market that until now has not even existed in the United States, where no one has ever sold a $500-and-up phone that is more about multimedia than about voice calls.

Not that others couldn't have. Most, if not all, of the gear that Apple has packaged into the iPhone is not unique, be it touch-screens, WiFi, Bluetooth, or a camera —even the iPhone's seeming magic in sensing if it's being held vertically or horizontally, shifting its screen appropriately. But that kitchen-sink approach is Apple's gamble: deftly packing oodles of capability into one sleek device and assuming Americans will pay for it (with no discount while being handcuffed to a two-year service plan).

Expectations. Apple is wagering that it can be first because of its superior fit and finish. The iPhone's raw technical specs left him cold, says Avi Greengart, recalling his initial reaction as Steve Jobs described the new product in a January speech. Then he got 15 minutes to try one, and his skepticism melted. "I realized it lives up to the hype," says Greengart, who has tested scores of hand-held devices for the market-tracking firm Current Analysis.



Apple understands that it's the software, stupid, and has written numerous nice touches into the system that runs all that gear. Some of them make the iPhone uniquely attractive: shadows behind objects, like a desktop computer, and fade transitions between screens. Flick the touch-screen and send a list scrolling, then watch it slow down as if on a physical spindle. Apple also manages to walk users through tasks like setting up a conference call—who can manage one of those on a cellphone?—without patronizing them with dumbed-down "wizards" or cutesy characters. "Many people hate, hate, hate their cellphones," Greengart says. "The iPhone doesn't make you feel stupid—it makes you feel cool."

There are things missing from the iPhone, including high-speed Internet, even though Jobs touted its Web browser. The phone won't tap the fastest data

A Time of Reckoning

PIRACY AND COUNTERFEITING AND WHAT IT COSTS

Address by BOB WRIGHT, Vice Chairman, General Electric, and Chairman and CEO, NBC Universal

Delivered to the attendees of the third annual anti-counterfeiting and piracy summit: Threatening Health, Safety, and Jobs: The True Cost of Counterfeiting and Piracy, at the U.S. Chamber of Commerce, Washington, D.C., September 29, 2006

Thank you, Dan [Christman], for that introduction.

Let me begin by applauding Tom Donohue and the U.S. Chamber of Commerce for their commitment to confronting the worldwide epidemic of counterfeiting and piracy. The Chamber, representing the broad sweep of U.S. business, recognizes the severity of this epidemic and understands what is at stake.

Any civil society rests upon two strong pillars: physical security and economic security.

Five years ago, we learned, tragically, that our physical security is under attack. Since then, we've been a nation at war, with immense resources mobilized to fight a difficult struggle against an elusive enemy.

Today, I want to suggest that the second pillar, our economic security, is also being challenged.

Our nation is being tested in a way that we have not been since the start of the Cold War. These are the words of our President, delivered two and a half weeks ago to the nation. His subject was the war on terror. Of course no one could equate the horrific loss of life we've suffered over the last five years with our theme at this Summit, but I do want to suggest that we indeed *are* being tested by piracy and counterfeiting, across *all* sectors of our economy, with enormous implications for our future.

I stand here as a chief executive of a media company. Too frequently, the fight against counterfeiting and piracy gets downplayed as just being about movies and music. But let me tell you: We in the media are one of the canaries in the coal mine. We're the Redcoats in the French and Indian War. Every other industry is lined up right behind us.

As this conference makes clear, and the presence here of the Attorney General, the Secretary of Commerce, and the U.S. Trade Representative emphasizes, significant portions of the U.S. economy are threatened by the increases of counterfeiting and piracy in sectors as diverse as automobiles, aerospace, computer software, defense contractors, fashion design, high-tech manufacturing, pharmaceuticals, and software.

At risk is every sector of our economy where creativity, innovation, and invention drive the creation of economic value and of high-wage jobs.

If we do not step up our efforts to protect the foundation of future economic growth, our nation and our children have a bleak future. This issue needs to be moved up on the agenda of every business leader, every trade organization, and every congressional office.

Many policymakers *are* paying attention. As the Bush administration's Report on Intellectual Property Enforcement and Protection, just released yesterday, clearly shows, the current administration has done more than any previous one to focus attention on this issue. President Bush and President Barroso have been forceful in calling for global piracy to be a top action item for the U.S. and the European Union. But from where I sit, we are not close to where we need to be.

Too many in policymaking and law enforcement still view counterfeiting and piracy as relatively minor crimes that pale beside the many other demands on law enforcement, such as terrorism and violent crime. Of course, we must respond vigorously to those threats.

But we don't seek a future for our children that is physically secure and economically impoverished. We seek a future that is physically secure, and economically vibrant. And this means escalating the fight to protect our most precious resource—our innovation and creativity.

Let me point out that when I speak about the piracy threat to my particular industry, it is the only sector of the economy with a positive balance of trade in every nation in the world. It is big. It is growing. And its product is 100 percent intellectual property. It is crucial that it receive the protection it deserves. Jobs, tax revenues, and economic growth depend upon it.

So what is our response to this threat? As business leaders, government officials, or policy analysts, what are the action steps we need to take to answer this call to arms?

I want to suggest the following four steps that will lead to real progress in this battle.

First, we need to recognize the impact piracy and counterfeiting have on our economy today and recognize the threat they pose to our future. We need to understand that it cuts across all business sectors.

Recognizing the extent of piracy means collecting data. Important work in this area has begun. The Chamber is involved. So is the International Chamber of Commerce. The well-respected Organization for Economic Cooperation and Development is conducting a major worldwide study. And in our own sector, we are taking significant steps to document the extent and the cost of piracy.

As an example of what I am talking about, I want to announce today the findings from a new study that tackles one of the businesses I know best—film. This study weighs the true economic impact of movie piracy. Similar evaluations in other sectors would provide a much more disciplined look than we've ever had at the real economic costs of piracy

and counterfeiting in every business sector.

I will say more about this in a moment, but first let me thank Tom Giovanetti and his colleagues at the Institute for Policy Innovation, who published the study, and Steve Siwek from Economists Inc., who wrote it, for allowing me to announce these findings today.

Second, business and government must use all the powers of persuasion they can to get the message out that IP piracy and counterfeiting are not nuisance crimes. This isn't just a problem of one or two sectors or a few big companies. We're talking about organized crime. We're talking about a problem that touches pharmaceuticals, automobiles, aerospace, defense contractors, software ... every sector. We're talking about the future economic security of our nation.

Third, we must significantly increase resources at all levels of government, in this country and globally, to enforcement against IP crime.

And fourth, key players in the private sector must take steps within their control to reduce piracy. We must collaborate, public and private, and across industry sectors, with special attention to technological solutions.

I: Recognize the Cost

Now, let me elaborate a bit on each of these four prongs of attack. First, we must recognize the enormous cost posed by counterfeiting and piracy—not just in terms of lost revenues to the business sectors involved, but in terms of lost jobs, lost wages, lost taxes, and lost growth for the future.

If you look at the literature generated over the past few years on the cost of piracy, you'll see numbers that are all over the map. Obviously, measuring this activity is not easy. But recently we have made very good progress.

Last year, we commissioned a study from Steve Siwek entitled "Engines of Growth: Economic Contributions of the U.S. Intellectual Property Industries." The study was designed to answer an important question: How dependent is our economy on those industry sectors that are driven by innovation, invention and creativity?

The Siwek study aggregated the "IP industries"—industries that rely heavily on copyright or patent protection—and measured their revenue, employment, compensation to workers, and growth.

The Siwek study found that these industries are essential contributors to U.S. GDP, responsible for 20 percent of the total U.S. private industry's contribution to GDP and 40 percent of the contribution of U.S. exportable products and services to GDP.

And it found that they are the most important growth drivers in the U.S. economy, contributing nearly 40 percent of the growth achieved by all U.S. private industry and nearly 60 percent of the growth of U.S. exportable products and services.

"Engines of Growth" put some numbers on what was already quite evident: IP industries are our economic future. These sectors are the driving force behind our ability to sell goods and services around the world.

And they are being seriously damaged by piracy. But what does this mean specifically in terms of lost output, lost jobs, and lost tax revenues?

We decided to try to make progress toward solving this puzzle by starting with the movie sector, where we are close to the source material.

The Motion Picture Association of America had undertaken a comprehensive study of global movie piracy, based on consumer research. The study established that the six MPAA companies lost $6.1 billion to worldwide piracy in 2005.

But why should policymakers—and the general public—care?

In the study I mentioned earlier, which will be released today at a press conference immediately following the Summit, the Institute for Policy Innovation has answered this question.

When a studio loses revenues to piracy, it doesn't have that money to reinvest into making more movies and television. But the important point is that not only does this affect the individual studio, but it impacts all the companies that would have contributed to or benefited from these unmade productions.

It reduces the revenue both of the upstream suppliers of entertainment products, and of the downstream industries, like movie theaters, DVD retailers, and video rentals.

How can these losses be measured? The U.S. Department of Commerce, through its Bureau of Economic Analysis, has developed a method of measuring these cascading effects. It uses what are called input-output multipliers to quantify how much the change in the output of one industry will change the output of other, related, industries.

Using these analytical tools, the IPI study found that:

- Motion picture piracy results in *total lost output* among all U.S. industries of *$20.5 billion annually.*
- Motion picture piracy costs U.S. workers *$5.5 billion a year in lost earnings, $3.6 billion* of which would have been earned by workers in other U.S. industries.
- Motion picture piracy *costs jobs*. Absent piracy, *141,000 new jobs* would have been added to the U.S. economy.
- And finally, motion picture piracy costs governments at all levels, conservatively, *$837 million in lost tax revenue.*

This first step—which takes as its starting point the losses in one industry, the motion-picture industry—starts to indicate how damaging the true cost of piracy and counterfeiting is.

Imagine if we included the losses of other industries that are hit hard by IP theft, such as software, luxury goods, and automotive parts. The numbers would be staggering. For example, the software industry conducted a study recently and concluded that a 10-point drop in the global piracy rate in their industry would yield 2.4 million new jobs and $400 billion in economic growth over four years. It is clear we are talking about hundreds of billions in lost productivity

and many millions of jobs.

This study focuses only on the United States. But, as we all know, piracy and counterfeiting are also a significant global problem, both for developed and developing nations. What is it costing them?

Today's public policy debates have not benefited from a documentation of the overall impact of these crimes on our economy. A full accounting would galvanize a far greater appreciation of the extent to which our economic security is at stake.

II: Communicate the Findings

My second point is that we need to do a better job of communicating how important this issue has become. As I said at the beginning, this discussion demands the same degree of urgency as our policy debates about physical security.

To my colleagues in the business community, I say these issues need to be recognized as CEO-level issues, deserving personal time and leadership. To policymakers at all levels of government and to the senior leaders in the law enforcement community, I recognize the many demands on you and your organizations. But I urge that we all need to communicate forcefully that economic security has a rightful place near the top of our agenda and that counterfeiting and piracy have reached crisis levels and require more attention and more resources.

Events like this Summit are, of course, an important step. I want to commend the Chamber of Commerce, the National Association of Manufacturers, and the Coalition Against Counterfeiting and Piracy for their efforts. Internationally, we have a similar effort under way with BASCAP, the Business Alliance to Stop Counterfeiting and Piracy, which is spearheaded by Jean-René Fourtou and the International Chamber of Commerce. These are crucial cross-sector efforts, and they are gaining momentum.

All of us—in the private sector and government—have a responsibility to convey to our customers and constituencies that intellectual property rights are vital to our economic future.

We need to call upon private industry to step up worldwide campaigns to educate consumers and policymakers about the moral and economic reasons to protect intellectual property.

We need to call upon the administration to ensure, in its negotiations with trading partners, that it makes the case that this is an economic security issue.

We need to call upon our elected representatives, through the Commerce Committees, as well as through the Judiciary Committees and the International Relations Committees, which do not normally deal with this issue, to keep the spotlight focused on our economic security.

We need to call upon both political parties, as the election season draws near, to make IP protection a centerpiece in the effort to keep the U.S. competitive.

III: Enforce the Law

My third prong is enforcement.

This is a time of constrained resources. But failing to act is penny wise and pound foolish, because future tax receipts will more than offset today's enforcement expenditures.

Globally we must wage this battle in Beijing and Barcelona as well as in Boise. Whether it is a counterfeit drug, a computer-generated car design, the theft of a valve technology from a French industrial parts supplier, or a pirated copy of *King Kong* distributed online, counterfeiting and piracy must receive priority enforcement attention.

We need to fight it on the street, where it operates in the shadows of organized crime. Just as we are doing in our fight against threats to our physical security, we need to analyze the support structures, identify the facilitators and target the chokepoints.

The media sector, of course, faces special challenges. I do want to applaud the Attorney General and the IP Task Force for their efforts in prosecuting international online gangs that illegally supply movies, music, and software to peer-to-peer networks. Cutting out that supply and driving consumers toward the many legitimate online services that are available, is a critical step.

In the wake of the Supreme Court's Grokster ruling, enterprises based on theft—Napster, Kazaa, and Grokster itself, have either gone legit ... or moved out of the United States.

But these are, unfortunately, only initial victories. Technology makes it easier than ever to illegally access and distribute copyrighted materials from anywhere in the world. Practically anyone with a computer can make copyrighted content available instantly to millions of people.

This makes enforcement efforts at once more difficult and more important. At the federal level, we've seen the Department of Justice increase its prosecutorial resources in this area significantly.

But I urge Congress to act this year to appropriate funds for significant increases in FBI investigative resources devoted to IP crime.

We need more resources at the Department of Homeland Security dedicated to stopping counterfeit and pirated goods from coming into this country. We need more enforcement resources at the state and local levels, and I urge the National Governors Association, the National Association of Attorneys General, the U.S. Conference of Mayors, and the National Association of Chiefs of Police to make IP protection a major priority for 2007. In particular, I hope we will see significant leadership in plans to combat IP crime from some of our largest cities and states in the coming months.

Overseas, the U.S. must continue and step up efforts to ensure that our trading partners—including Russia and China—respect and enforce intellectual property laws.

Internationally, the media sector faces two different challenges. On the one hand, there are entire countries in many parts of the world where the piracy rates are so astronomical

that doing business is virtually impossible. Plenty of people consume our products, but it is all stolen property. This is a huge opportunity for growth that is completely foreclosed by piracy. But it is not a hopeless situation. Where there is the political will, the tide can be turned. Taiwan and Hong Kong, for example, have made good progress when their governments made strong enforcement a serious priority.

On the other hand, there are the more industrial countries where our business is traditionally strong but is beginning to be eroded by piracy. This is the case in Spain and Mexico, for example.

We need both these situations to be addressed. Where piracy dominates the market, we need serious criminal enforcement commitments from governments that have historically allowed piracy to go unchecked. Where piracy is eroding established markets, we need modernized enforcement initiatives from governments that have historically enforced IP protection but are falling behind in adapting enforcement to today's more sophisticated and dedicated IP criminals.

The commitment made by Presidents Bush and Barrosa at the June EU-US summit represents a major step in the right direction. But a huge amount remains to be done internationally.

IV: Work in Partnership

Fourth, we need cooperation within and across sectors. We need all industries to be committed to taking action in areas that are under their control and also to support wider public policy efforts. We should recognize, too, that effective solutions will require a heavy measure of technology. Technology, for example, that will help identify counterfeit goods at the border.

Again, let me use my own business as an example. In confronting our piracy problem, it is imperative that we have our partners on the technology side as part of the solution.

The media industry has long been criticized for resisting technology and protecting old business models. Today, nothing could be further from the truth. We and our competitors are embracing new digital delivery systems as quickly as they appear. Consumers can download our TV shows on the iTunes service. They can get our movies from Amazon.com. They can watch streams of our programs on NBC.com or MSNBC.com, or even on AOL.

We are entering an era marked by an incredible wealth of video choices at your fingertips.

All this has a dark side, however. It makes our most valuable products incredibly vulnerable to theft.

We need our business partners to be as aggressive in deploying technology for fighting theft as they are in deploying technology for new digital distribution.

It is ironic that some of the very same parties who suggest content companies aren't moving fast enough to embrace new technologies for distributing our content, fail to call on technology and distribution companies to accelerate the development of technology to fight piracy.

All too often, our business partners act as if digital piracy is a problem just for the content industry. It is terrific that ISPs are investing billions to roll out broadband services. Yet independent firms report that well over half of broadband traffic is devoted to P2P file sharing, which is dominated by the illegal exchange of movies, music, software and games, not to mention pornography. We need ISPs to work in partnership with content companies, passing notices to and if necessary terminating customers who abuse their networks by illegal downloading.

Moreover, ISPs and content companies should be working together to find ways in the future, always consistent with subscribers' legitimate privacy concerns, to filter out illegal content while speeding along legal content. This is an acute issue on college campuses, where students all too often use ultra-fast computer networks not for academic research, but for illegal downloading.

We need university administrators to take much stronger action, including most importantly the use of blocking technologies, to stop wholesale illegal downloading and exchange of stolen copyrighted works on campus. Their action or inaction sends an important message to students about whether illegal activity is condoned or condemned. I pledge the full support of my company—including the formidable capabilities of the GE Research Lab—in these efforts. Together, we will find a way.

The fact is, technological steps that would significantly reduce much of the piracy problem for media companies are available right now. We have the ability to insert a digital "tag" or "watermark" in our content. I am delighted that the CE, IT and content industries have cooperated in developing technological standards for the new HD generation of DVDs, which will include provisions for detecting copyright watermarks in order to interfere with the playback of pirated material.

It is absolutely critical that we continue down this path. Technological sophistication should be our partner in the fight against digital theft. We need our business partners to help us apply the same technology to our content viewed in the context of the PC and the hard drive, to the new devices that will facilitate moving digital material from device to device within the home, from computers to handheld devices to TV sets and so on.

In this connection, I applaud the recent formation of the Digital Watermarking Alliance, consisting of companies that are at the forefront of developing technologies devoted to the protection of copyrighted and proprietary content.

I mention these issues as examples of how we in the media industry need cooperation to make progress. But every business sector needs to look at ways specific to their industries to address this problem.

Sometimes all it takes is the recognition that no competitive advantage is worth violating intellectual property rights. That's the position PepsiCo took when a Coca-Cola employee came to them with trade secrets. They promptly alerted their rival and enabled the FBI to set up a sting

operation to catch those responsible.

I've discussed—at some length—four steps that will lead to progress on this issue. By way of conclusion, let me suggest four specific things that need to happen between now and when we gather again at next year's Summit.

First, we need to have hard numbers on the table that reveal the full impact of piracy and counterfeiting on our economy. The IPI study is a great start, but it needs to be expanded and complemented by other studies, in industries from manufacturing to pharmaceuticals. That is going to take a commitment of resources and data from government and from other business sectors.

Second, we need to see stepped-up advocacy by both the private and public sectors. On the private side, this means companies in every sector, from aerospace to automotive, working together with organizations like the Chamber of Commerce's CACP and the International Chamber's BASCAP to convey the scope of the problem and the urgent need for solutions. On the government side, it means clear pronouncements from the administration, Congress, and both political parties that our future growth depends on rigorously protecting intellectual property.

Third, law enforcement at the federal, state, and local levels needs to be in a much better state of readiness, with adequate resources in place. Congress should follow through on the effort to add 65 agents at the FBI and Customs dedicated, educated, and well-equipped to investigate IP crime, in sectors ranging from financial services to fashion. I would also call on the governors and attorneys general in our 10 largest states, and the mayors and chiefs of police in our 20 largest cities to have adopted coordinated, model IP protection enforcement programs in their jurisdictions.

Fourth, when we reconvene next year, we need to have made real progress in implementing technological solutions to the counterfeiting and piracy problem. In our own industry, I hope we are well on the way to partnering with the CE, IT, and ISP industries, as well as the university community, and putting serious resources and effort into developing and implementing effective technological solutions that create real roadblocks to the digital distribution and playback of pirated products.

I titled my remarks today, "A Time of Reckoning." *To reckon* means to consider or to weigh something. But in its earliest definition, it has to do with counting. Today, both definitions apply. IPI is literally announcing a new reckoning when it comes to piracy and counterfeiting.

By accurately measuring the scope of the problem, communicating its importance, ensuring adequate enforcement both here and abroad, and working in tandem with our technology partners, we can make a real difference.

NBC Universal has made a commitment to work with the CACP domestically and with BASCAP internationally and with all governments here and abroad. I hope you all will join us in support of these important efforts. The time of reckoning is right now.

Thank you. ◆

Energy Policy

A TRAIN WRECK WAITING TO HAPPEN?

Address by THOMAS F. FARRELL II, President and Chief Executive Officer, Dominion

Delivered to the World Affairs Council, Richmond, Virginia, September 14, 2006

Ambassador Bell, ladies and gentlemen. Thank you for the warm welcome. It is a pleasure to be here tonight ... and a real honor to join the ranks of the distinguished guests who have preceded me at this lectern.

I want to begin by congratulating Ambassador Bell and the World Affairs Council for 10 years of outstanding service to central Virginia.

Dominion has been a corporate sponsor of this Council since 1999. We value and support your efforts to promote global literacy and a deeper understanding of international affairs.

Energy literacy is—or should be—an important aspect of that understanding and a top priority in today's complex world. The U.S. is, after all, the world's largest energy consumer and one of its leading producers.

Unfortunately, too many Americans remain in the dark about energy. Much of what they know—or think they know—comes from the media, typically in 30-second sound bites or video clips sandwiched between TV commercials.

Average citizens are not the only ones who are uninformed. The gap between what is real knowledge and imagined knowledge of energy issues is sizable. We see it most clearly in the often disjointed, confused and polarized Congressional debate about energy policy.

This low level of literacy stems in part from some longstanding myths and misperceptions. The media perpetuates them, some politicians reinforce them, the public frequently buys them, and the energy industry has not done an adequate job of refuting them—largely because of poor credibility with the public.

I will offer just a few for your consideration:

Myth No. 1: Cheap and abundant energy is an American birthright, along with life, liberty and the pursuit of happiness.

Fact: Nowhere in the Constitution or the Declaration of Independence does it say that energy is an entitlement.

Myth No. 2: Multinational oil companies control the flow of oil and are responsible for today's high prices at

the gas pump.

Fact: Oil prices fluctuate according to global supply and demand. Almost 80 percent of the world's oil reserves are controlled by national oil companies in Saudi Arabia, Russia, Venezuela and elsewhere. The ExxonMobils of the world control only 6 percent of the worldwide reserves.

Myth No. 3: America can and should achieve total energy independence.

Fact: We live in a global economy, and many energy markets are interconnected, especially oil and increasingly natural gas. International energy trade is one of the few forces capable of bringing nations together. Of course, the expansion of our domestic energy supply base makes good sense. But complete independence from the world market is simply not possible. Energy interdependence is a more realistic and compelling goal.

Myths and misperceptions like those are widespread. They are deeply embedded in the American psyche. Their effect is to distort the way we think about energy. They underlie the gridlock that has prevented us from developing a rational, coherent national energy strategy with economic, environmental and political integrity.

There are no quick fixes or silver bullets to remedy this problem. Changing America's notions about energy will take a huge commitment of time, money and cooperation among government, industry and the educational community. It could take decades to accomplish.

Obviously, we do not have that kind of time. We need realistic, balanced public policy now if we want to prevent an energy "train wreck" from occurring.

I am not by nature a purveyor of gloom and doom. And my intent is not to alarm you unnecessarily. On the other hand, I am not here to deliver a "don't worry, be happy" message. I am simply convinced that if we do not take steps to shift our nation's energy policy in a meaningful way, the hypothetical train wreck I speak of will come to pass. And the wreckage could include jobs, tax revenues, income growth, energy reliability, national security and global competitiveness.

So what do we need to do to stay on track and lay the foundation for a more secure energy future?

First, allow me to state what we do not need: more of the same old energy politics. Congressional lawmakers typically do not pay much attention to energy—at least until supplies get tight, prices rise, and public outrage boils over. At that point, policymakers feel the heat, and their response is predictably too little, too late. It is a regrettable and all-to-familiar pattern. It puts political expediency ahead of economic sense and free market principles—and our nation suffers for it.

The Energy Policy Act passed by Congress last year was a step in the right direction, but it was only one step. Here in Virginia, the 2006 General Assembly passed a comprehensive energy bill that contains forward-looking provisions about offshore gas exploration, clean-coal technology, energy efficiency and the creation of a statewide energy plan. That is good news for the Commonwealth and its citizens and should be an example for Washington, D.C.

But on a national level, we still need an energy policy with real bite—one that effectively addresses our most pressing energy challenges.

So what are those challenges? There are four I want to discuss tonight:

- First, the serious and growing imbalance between energy supplies and consumer demand
- Second, our congested and inadequate energy transportation network
- Third, rising environmental costs and uncertainties
- And fourth, the nation's aging fleet of electric generating stations.

I will start with supply and demand.

As anyone who suffered through Economics 101 knows, bad things—such as shortages and high prices—result when demand outstrips supply. That is precisely what is happening in today's energy markets. Homes, factories and businesses are hungry for more electricity, gas and oil—here and around the world.

Some statistics from the experts at the U.S. Energy Information Administration are enlightening.

Over the next 25 years, the overall demand for electric power in the U.S. is expected to jump by 50 percent. The commercial sector will lead the way, propelled by the growth of big-box stores, longer hours and more energy-intensive equipment.

The global appetite for power is even greater. Worldwide electricity consumption will double over the same period.

Natural gas has become the fuel of choice for electricity generation—in addition to its more traditional uses for home heating and industrial applications. Gas has environmental advantages over oil and coal. Its use is projected to rise by 20 percent here in the U.S. over the next 20 years.

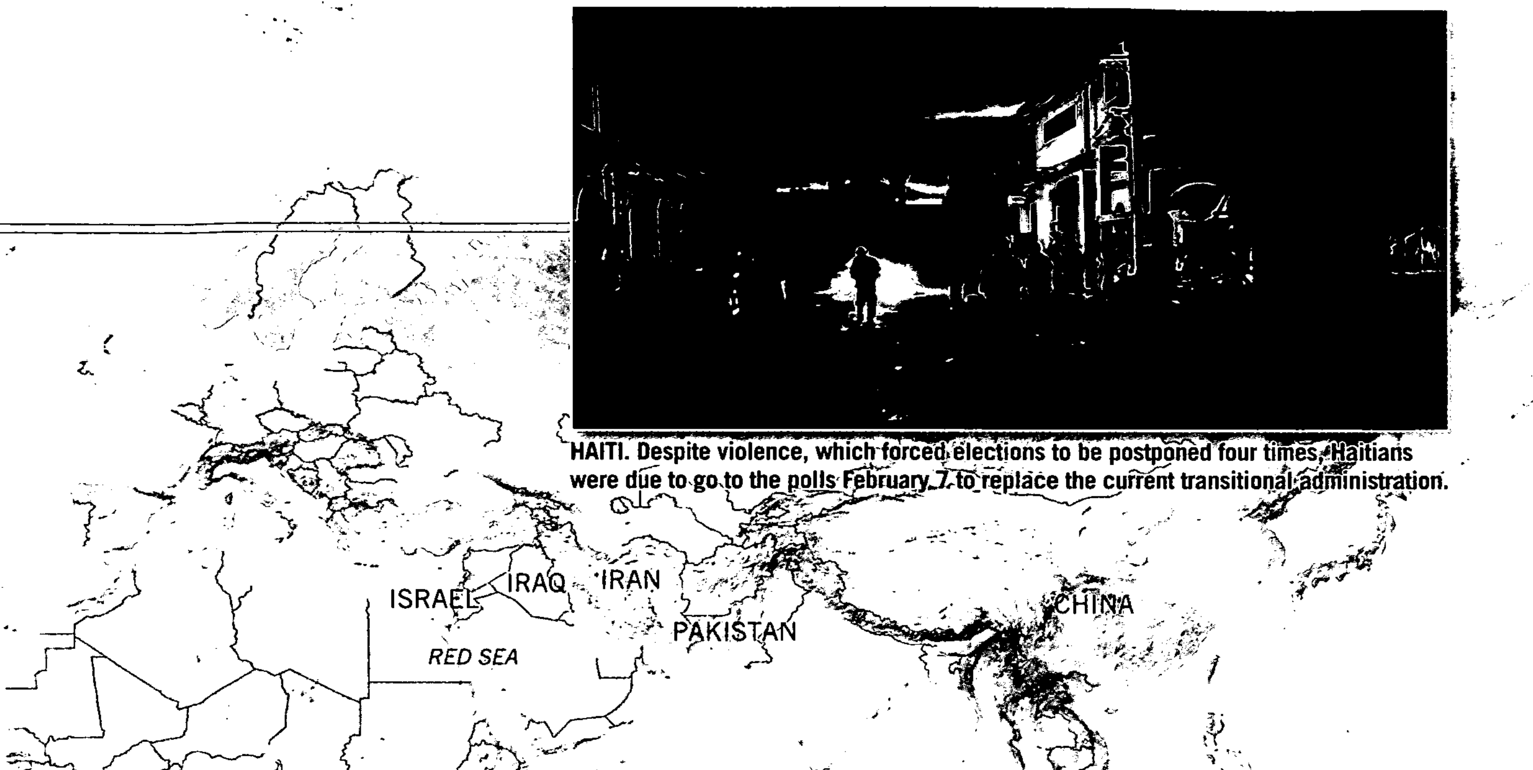
As demand rises, so do prices. The wellhead price of natural gas more than doubled from 2003 to 2005, and prices are expected to remain high by historical standards. On a worldwide basis, natural gas consumption is forecast to grow by over 90 percent between now and 2030.

Then there is oil. Our "addiction"—and that is the appropriate word to describe it—is strong and growing. Domestic oil consumption is rising about 1 percent a year, with imports accounting for more than 60 percent of the total. By 2030, the United States will consume more than 27 million barrels a day.

We are not alone in our thirst for "black gold." Global demand for oil will increase by nearly 50 percent by 2030. The emergence of China and India as world-class economic powers is a leading cause of that growth. Their mushrooming demand for oil and other forms of energy is reshaping global markets and creating new geopolitical alliances and security concerns along the way.

The second major challenge is energy transportation.

As we saw earlier this summer with BP's problems in



HAITI. Despite violence, which forced elections to be postponed four times, Haitians were due to go to the polls February 7 to replace the current transitional administration.

BANNED IN CHINA. Chinese superstar Ziyi Zhang, with Japanse actor Ken Watanabe, in a scene from the film *Memoirs of a Geisha*

A Titanic Tragedy on the Red Sea

Until last Friday, the 35-year-old Egyptian ship Al-Salaam Boccaccio 98 hardly seemed likely to be mentioned in the same breath as the tragically famed British ocean liner Titanic. Some 1,400 people, mostly poor Egyptian workers returning from Saudi Arabia, packed aboard the aged ferry for the 120-mile night passage across the **Red Sea.** Shortly after midnight, disaster struck. The ship sank during bad weather, taking with it more than 1,000 of the passengers—a horrific toll that puts it in a class with the Titanic's 1,500 deaths.

Taking a Little off the Top

In his State of the Union address last week, President Bush said, "Our coalition has learned from our experience in **Iraq** . . . and changed our approach to reconstruction." None too soon, judging from a recent audit of the thousands of reconstruction contracts awarded in Iraq that found programs riddled with ineptitude, mismanagement, and graft. The 9,000 contracts under review by a contracting office that reports to the U.S. Army are worth some $5.8 billion in Iraqi money and cover a range of reconstruction jobs, from providing hand radios to building hospitals. The spending of U.S. reconstruction dollars has also come under scrutiny, as a growing share of money approved by Congress for rebuilding has been diverted into establishing Iraqi security forces. The special inspector general for Iraq reconstruction said in a report that only about a third of the planned water and sewage projects and two thirds of the electricity projects will be completed. Stuart Bowen asked for more money, saying that the $18.4 billion originally awarded by Congress was not going to be enough.

Memoirs of a Controversy

Now that *A Million Little Pieces* author James Frey has had his 15 minutes of fame, another memoir's accuracy controversy is stirring. The government of **China** banned the showing of the Steven Spielberg-produced film *Memoirs of a Geisha* because, well, famous Chinese film stars are cast as Japanese geishas. With already rocky Sino-Japanese relations, authorities reportedly are concerned that the film could bring back memories of the Chinese "comfort women" forced to work in Japanese military brothels during World War II. Ironically, popular Chinese stars Ziyi Zhang, of *Crouching Tiger, Hidden Dragon,* and Gong Li were chosen in part to boost the film's marketability in China. It's a setback for Sony Pictures, which planned to distribute the Columbia Pictures film, but pirated DVDs already are on the streets of China's cities for 20 yuan, or $2.50. ●

With Ilana Ozernoy and the Associated Press

FROM TOP: SCOTT NELSON—WORLD PICTURE NEWS; DAVID JAMES—COLUMBIA PICTURES / AP

Datebook

Edited by James Bock

WEDNESDAY, FEBRUARY 8

• **DIFFERENT STROKES FOR DIFFERENT FOLKS.** The 48th annual Grammy Awards are doled out in Los Angeles. There are 108 categories in all, even one for Best Album Notes. Stars will glitter (Bruce Springsteen, Mariah Carey, Kanye West, U2, Jamie Foxx, Faith Hill, and Coldplay, for starters), and the show will include a tribute to back-in-the-day funk-rockers Sly and the Family Stone.

• **LET IT SNOW.** Judges select the best snow sculpture from the work of 15 international teams at the 57th Sapporo Snow Festival on the Japanese island of Hokkaido. A ski marathon and a symphony orchestra concert conclude the festivities on February 12.

• **HOMAGE TO GORE-TEX.** The National Inventors Hall of Fame announces its 2006 inductees in Washington, D.C. Among inventions in the spotlight will be Gore-Tex fabric, coaxial cable, fiberglass, and the intravascular stent.

THURSDAY, FEBRUARY 9

• **A BUSH FRIEND FROM EUROPE.** President Lech Kaczynski of Poland, a conservative who took office in December, meets with President Bush at the White House. Poland has been a stalwart Bush administration ally, sending a contingent of 900 troops to Iraq. Kaczynski's Law and Justice Party has struggled to form a ruling coalition and has floated the possibility of holding new elections this spring.

• **SCREEN GEMS.** The 56th Berlinale, as Berlin's international film festival is known, opens with the première of the British-Canadian film *Snow Cake,* a drama starring Alan Rickman and Sigourney Weaver. The festival, which ends February 19, claims the largest movie audience anywhere, with 150,000 or more tickets sold.

FRIDAY, FEBRUARY 10

• **BUON GIORNO, TORINO.** Flag-waving athletes open the XX Winter Olympiad in Turin, Italy. Some 2,500 competitors, including American heartthrob Bode Miller, vie for 84 medals through February 26 in seven sports: biathlon, bobsled, curling, ice hockey, luge, skating, and skiing (story, Page 30).

• **CHECK AND MATE.** Ten years ago today, chess champion Gary Kasparov lost a game to an IBM supercomputer dubbed Deep Blue. Kasparov went on to win that heavily hyped match in New York, 4 games to 2, but lost to a reprogrammed Deep Blue the following year. While Kasparov (who has since announced his retirement) played computers to ties twice in 2003, the trend has favored the machines. Last year Britain's Michael Adams, then No. 6 in the world, managed only one draw in six games against a chess supercomputer named Hydra.

SATURDAY, FEBRUARY 11

• **THROW ME SOMETHING, MISTER!** The first parade of Mardi Gras season steps off in New Orleans as the satirical Krewe du Vieux moves through the battered city's French Quarter with the Hurricane Katrina-inspired theme of "C'est Levee" and the motto "Life's a breach." The krewe promises brass bands, traditional floats, beads, and some attitude ("We've learned that there are nine different types of mold and they all smell worse than a congressional appropriations committee").

SUNDAY, FEBRUARY 12

• **ON THE ORIGIN OF DARWIN.** Fans of Charles Darwin stage an "evolution teach-in" at the University of Pennsylvania's Museum of Archaeology and Anthropology in Philadelphia. The occasion: the anniversary of Darwin's birth in 1809 (Abraham Lincoln was born on the same day) and the continuing controversy over how evolution is taught in American schools.

• **EVERY VOTE COUNTS.** In a rematch of a 2001 virtual dead heat, President Pedro Pires of Cape Verde, an archipelago nation off the west coast of Africa, takes on challenger Carlos Veiga. Pires defeated Veiga for president by only 12 votes five years ago. In parliamentary elections in January, Pires's leftist African Party for the Independence of Cape Verde won a majority over Veiga's center-right Movement for Democracy. This will be the fourth election since one-party rule was abolished in 1990.

LANDON NORDEMAN—GETTY IMAGES

Staying loose at the Westminster Kennel Club show

MONDAY, FEBRUARY 13

• **BEST IN SHOW.** Dog handler Michelle Ostermiller goes for a "three-peat" at the 130th Westminster Kennel Club Dog Show in New York. Ostermiller handled Carlee, the German shorthaired pointer who won best in show last year, and Josh, the Newfoundland awarded the top prize in 2004. This year's two-day show has 2,622 entries in all 165 breeds and varieties recognized by the American Kennel Club, with Samoyeds and cavalier King Charles spaniels leading the entries with 42 apiece.

• **SOUTH AFRICAN TRIALS.** Jacob Zuma, who was once the heir apparent to South Africa's President Thabo Mbeki, is scheduled to stand trial on charges of raping a family friend in Johannesburg. Mbeki dismissed Zuma, then his deputy president, last June when Zuma was implicated in a bribery scandal. Zuma's trial on the corruption charges is scheduled for July.

TUESDAY, FEBRUARY 14

• **ST. VALENTINE'S DAY.** Lest you forget someone you love . . . •

With Angela Prikockis

VIDEO ON THE GO

Media giants scramble to deliver entertainment wherever and whenever you want. Will it pay off?

By Betsy Streisand

A group of money-hungry contestants searches nationwide for clues that will lead one player to the ultimate treasure. Week after week, audiences tune in as the field of competitors narrows, the clues get more complicated, and the human drama unfolds. The show is *Gold Rush!* created by Mark Burnett, the reality-television ratings machine behind such sensations as *Survivor* and *The Apprentice.*

But when it makes its debut later this year, *Gold Rush!* won't get the usual Burnett treatment: a prime-time slot on a national TV network and a huge marketing push. Instead, it will be carried on *aol.com.* And contestants won't be the only ones trying to unearth clues in hopes of finding a pot of gold. America's big media companies will be right alongside them searching for secrets to programming and advertising that may help them cash in on the rapidly growing appetite for video on demand.

Touted as the next big thing for so long that its arrival has become an industry joke, video on demand, which covers everything from movies that can be ordered up on cable TV to downloads of *Desperate Housewives* on a video iPod, may finally be closing in on its economic promise. "It has been the year for video on demand for the last 20 years," says media analyst Harold Vogel. "But this time it might actually be real. That doesn't mean that it's going to sweep the world, but things are finally falling into place."

More than one third of all homes now have high-speed Internet connections. Cable companies like Comcast and Time Warner have spent billions of dollars putting in the pipelines to deliver video to the

What makes T. Rowe Price's SmartChoice Rollover[SM] smarter?

With the T. Rowe Price SmartChoice Rollover IRA, you get the rollover you want, and we do the work.

We select the investments—with the T. Rowe Price SmartChoice Rollover IRA, you don't have to go through the complex task of choosing individual funds. We'll provide a well-diversified portfolio for you with one of our Retirement Funds. And we'll adjust the fund over time to reflect the need for reduced investment risk—gradually making the investment more conservative as the target retirement date approaches.

Proven performance—with our 68 years of proven performance, you'll feel confident knowing that T. Rowe Price is a smart choice for your rollover.

Low expenses—with no loads, sales charges, or commissions, and expense ratios for the Retirement Funds 45% below their category averages,* a T. Rowe Price Rollover IRA is the smarter choice. All funds are subject to market risk.

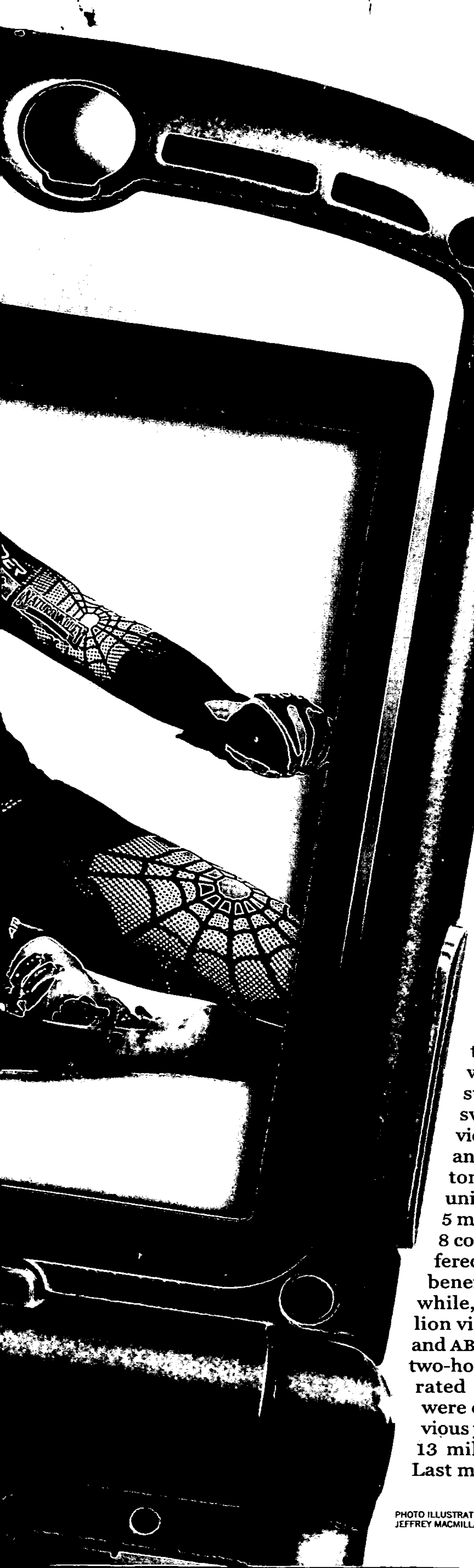
To get started, just call. Our Rollover Specialists will handle the rest. If you want, we can even open your account right over the phone and handle most of the paperwork for you.

troweprice.com/start | 1.888.702.0650

T.RowePrice®
INVEST WITH CONFIDENCE

Request a prospectus or a briefer profile; each includes investment objectives, risks, fees, expenses, and other information that you should read and consider carefully before investing.

*Based on the fiscal year-end data available as of 12/31/05, the Retirement Funds' total expense ratios versus their Lipper category averages for individual investor funds are 0.62%, 0.66%, 0.70%, 0.73%, 0.75%, 0.78%, 0.78%, 0.78%, and 0.78% for the Retirement 2005, 2010, 2015, 2020, 2025, 2030, 2035, 2040, and 2045 Funds, respectively, versus 1.46% for the flexible portfolio funds category, and 0.56% for the Retirement Income Fund versus 1.11% for the income funds category. (Source for data: Lipper Inc.) Please note that the Retirement Funds should not be considered a complete retirement solution. When planning for retirement, you should also think about factors such as needed emergency cash reserves, the amount of equity in your home, and your life and health insurance options. Before investing in one of these funds, be sure to weigh several factors, such as your objectives, time horizon, and risk tolerance, as well as your retirement needs and other sources of income. T. Rowe Price Investment Services, Inc., Distributor. IRARSC073208



home, and other giants such as Google, Yahoo! and AOL are investing heavily in creating video libraries, as well as original programming that can be downloaded. Finally, TV-enabled cellphones, iPods, and other devices are making visual entertainment as portable as a paperback, moving content providers like Disney, Viacom, and NBC-Universal to get their TV shows and other entertainment before the video-viewing public as fast as they can. "What we've had is a business of people watching TV at night and some at home during the day. Now we can connect 24 hours a day on computers, cellphones, iPods, and other devices," says Jason Hirschhorn, chief digital officer for MTV Networks, whose popular MTV Overdrive became one of the first broadband networks when it launched last year. "We don't know how the business models work yet or exactly who wants to watch what on what device and when. But we're experimenting with everything."

And consumers, determined to have what they want, where they want it, and when they want it, have already demonstrated that they are willing to switch among an array of devices—television, computer, iPod, and cellphone—and to pay to customize and control their media universe. Last summer, more than 5 million viewers watched the Live 8 concerts on AOL Music, which offered uninterrupted coverage of the benefit for tsunami victims. Meanwhile, MTV and VH1 drew 22.4 million viewers for their TV broadcasts, and ABC pulled in 16 million during its two-hour show. Ratings on MTV's top-rated *Video Music Awards* in 2005 were down 22 percent from the previous year, but MTV Overdrive logged 13 million downloads of the show. Last month, Apple announced that it has sold 8 million video downloads of 40 different TV series, including *Lost, Laguna Beach,* and *CSI,* since it began offering them in November.

Along for the ride. Media executives are clear that even if the take is low at the moment (many companies haven't even attempted to sell advertising with their downloads), the stakes are high. "The truth is, we don't know where we're headed. We know we are going for the ride," says Nina Tassler, president of CBS Entertainment, which recently sealed a deal with Comcast to make episodes of certain prime-time CBS shows available to subscribers.

The bet is that the new services will lead to advertising. The online ad market is growing by 40 percent a year and is expected to double its share of the overall ad market to 10 percent by 2010,

> "There's a robust advertising market around streaming video, especially if it's actually tailored to the Web."
>
> **Josh Bernoff,** Forrester Research analyst

according to Horizon Media. While Web video ads still account for less than $1 billion in revenue, a fraction of network TV's ad take, network ad dollars were up only 2.6 percent last year. And revenues are expected to fall off as audiences dwindle. But it is hardly the death of television. Overall TV viewership is growing steadily (the average household logged a record 57 hours a week last year, according to Nielsen Media Research), and purchases of ever bigger and more-expensive TV sets are climbing. Some downloads, such as those for NBC's *The Office,* have actually helped drive more viewers to prime-time shows. "The demise of the traditional media is badly overhyped," says Craig Moffett, an analyst with Sanford C. Bernstein in New York. "A la carte is only going to prevail if the economic model is better for the consumer, and at $1.99 a download, for 57 hours of TV a week, that would mean a $500 monthly cable bill."

But growth of video on demand, from movies to next-day downloads of TV episodes, threatens to render DVDs, the ATM of the entertainment industry, a minor profit player. A free cable movie, or one on cable pay-per-view for a few dollars, generates substantially less rev-

PHOTO ILLUSTRATION BY ROB CADY—*USN&WR*; PHOTOGRAPHS: (PHONE) JEFFREY MACMILLAN FOR *USN&WR*; (INSET) CLAUDIO SCACCINI—AP

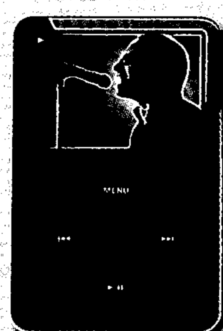
And You Thought Phones Were Just for Talking...

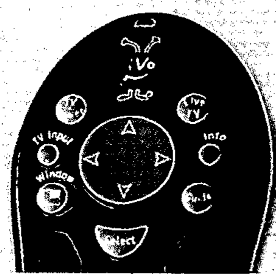
The couch potato is sprouting legs. Hollywood is finally unshackling video from theaters and televisions, which suggests you can start watching your favorite shows and movies on iPods and cellphones. So far, the promise outshines the reality—the program choices are too limited or too much hassle to convert and download.

Still, Apple made a breakthrough last fall when it launched the video iPod ($300) and Disney-owned TV shows at $2 an episode. Downloading from the iTunes store is quick and easy, and the iPod displays the fare well on its 2.5-inch screen (while also storing and playing music). But hit shows are limited to a few from ABC, including *Lost* and *Desperate Housewives,* and even they are available only after they've been broadcast.

To download more TV to more devices, a good option is TiVoToGo, a free add-on to the TiVo digital recorder's $13-a-month service. But it takes time to get shows from the TiVo to a PC and then to your Windows-powered handheld—perhaps an hour or two for an hourlong program. TiVo has said it will soon also support the video iPod and Sony's PlayStation Portable ($250). The Sony portable, by the way, might be as popular for watching movies as it is for playing games, with Sony selling several hundred movies on special disks.

News feed. For live TV on the go, you need a cellphone from carriers like Sprint Nextel and Cingular. Sprint offers news and entertainment channels on select handsets in its Sprint TV Live service, which starts at $10 a month on top of voice and data plans, and includes a special live feed from ABC News, plus the same Fox News Channel that's on cable. The carriers also offer canned clips, such as movies and sports (recorded video is all that's offered so far by Verizon on its V Cast network, which starts at $15 a month). But few of the choices are compelling.





OPTIONS. Apple's video iPod (left); Sony's PlayStation Portable (below); and TiVo's remote

To watch TV from any of the carriers, you'll want a high-end phone, such as the Sanyo MM-9000 from Sprint ($230 with contract) or the LG VX8100 from Verizon ($150 with contract).

Most shows are surprisingly watchable on a small phone in metro areas served by the carriers' high-speed networks, although lips sometimes lose sync with the audio and videos stall for buffering. Also, don't be confused by Sprint commercials that suggest customers can watch live NFL games—only clips and highlights are available. And none of this is push-button easy. It can take a minute or two of navigating menus and downloading to get a wireless video to play, meaning it can take as long to prepare snack TV as it does to consume it.

–David LaGesse

enue than a DVD sale. Ditto for television. The six-disk boxed set of the first season of *Desperate Housewives* has sold more than 1 million units, with a list price of $59.99. But such sales could plummet if viewers decide to download episodes instead. Moreover, providers—in this case Disney—have to share a part of the download fee with the deliverer, Apple. With DVDs, the bulk of the profit goes straight to the studio.

One area where analysts say video on demand shows good potential is streaming video, which can range from episodic shows, such as *Gold Rush!* and Yahoo!'s upcoming *The Runner,* to news and sports. "There's a robust advertising market around streaming video, especially if it's actually tailored to the Web," says Forrester Research analyst Josh Bernoff. Big national advertisers such as Ben Gay and Acura are paying significantly higher rates per thousand viewers for online ads than those charged in prime-time television to reach a much smaller but more targeted audience.

Winning hand. The cable companies are also well positioned to be big winners in this new era. Forrester Research estimates there were 23.9 million households with video-on-demand capability at the end of 2005, an increase of 27 percent from 2004. By 2010, virtually all of the 46.9 million digital cable homes will have video-on-demand capability. Comcast, which has been particularly aggressive, reported $100 million in ad revenue from the service last year, more than five times what it made in 2004. "If you ask consumers whether they would rather have video for free with ads or pay for a show and see it commercial free, they choose the advertising," says Brad Adgate, corporate research director for Horizon Media.

The same can be said for putting messages on cellphones, which seem likely to be the most ubiquitous portable content carriers. Consider: There were 20 million multimedia cellphones in the United States in January 2005. By September, there were 40 million. And by 2010, more than 25 percent of the 279 million digital TV devices are expected to be cellphones. As with much of the digital world, the business model of mobile TV isn't exactly there yet. Nonetheless, both broadcasters like Disney/ABC and cable giants such as Cox Communications have been signing partnerships with wireless providers to deliver content to phones. Later this year, Sprint Nextel will roll out a phone that allows customers to program their digital video recorders and then download the material to be played back whenever the mood strikes. Customers can even use the phone to do something as mundane as making a call. ●

CLOCKWISE FROM TOP: APPLE; SONY; JEFFREY MACMILLAN FOR *USN&WR*

The Rise of a New Power

A COMMUNIST ECONOMIC JUGGERNAUT EMERGES TO CHALLENGE THE WEST

By Richard J. Newman

SHANGHAI—Richard Qiang could be an archetypal American. The son of blue-collar workers, Qiang thrived in school and graduated with a law degree from prestigious Fudan University. Then he landed a job here with Paul, Hastings, Janofsky & Walker, a New York law firm with dozens of corporate clients. The 25-year-old attorney owns a car and apartment, and his only complaint involves the long workdays. "I have no time to find a girlfriend," he grins.

Only one thing distinguishes Qiang from a yuppie in Chicago or San Francisco or Manhattan: He belongs to the Communist Party. Like many ambitious young Americans who get involved in politics, Qiang's motives are pragmatic. He hopes to work for the government someday, helping craft China's budding legal system. Party membership is one way to open the right doors.

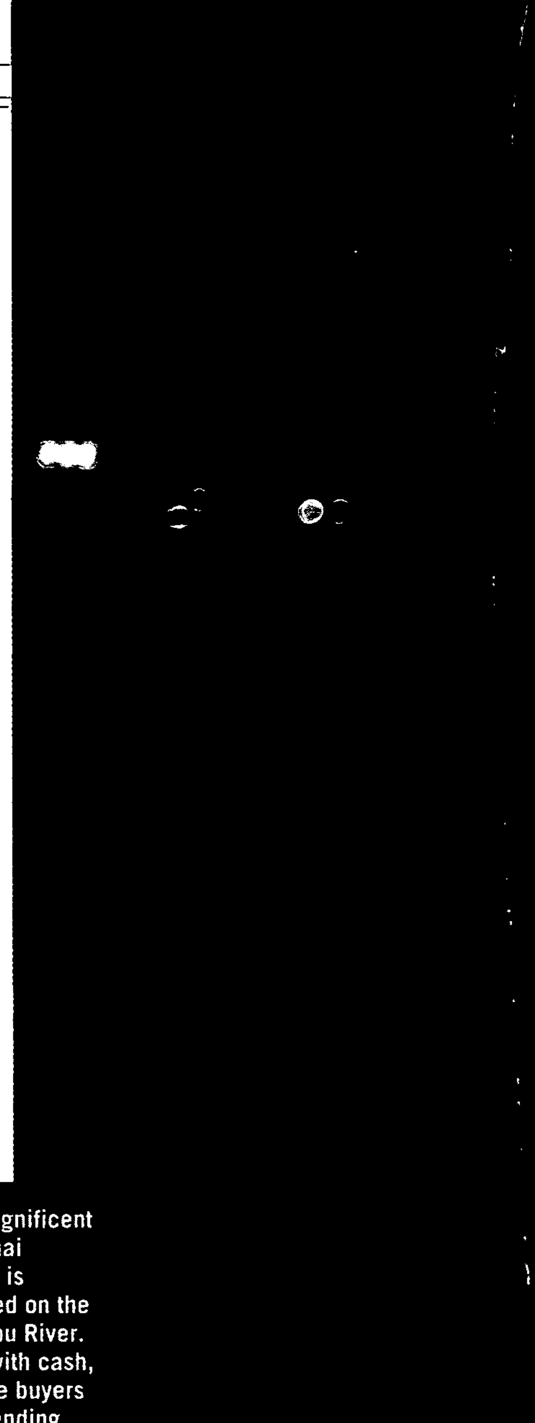
Angst. But Qiang's path to upward mobility—like that of China itself—is causing angst among Washington policymakers, Midwestern factory workers, and millions of others worried about the emergence of China as an economic and military superpower. It's an article of faith in the West that democracy and free enterprise must exist hand in hand. Yet China is transforming itself from a moribund state-run economy into one of the world's most vibrant marketplaces—and crowning thousands of millionaires in the process—all within the grasp of the Chinese Communist Party.

China is teaching the West something new. Its economy, growing at 9 percent per year, will most likely become the second largest in the world by 2020, behind only the United States. Last year Americans spent $162 billion more on Chinese goods than the Chinese spent on U.S. products. And that gap has been growing by more than 25 percent per year, as China moves from building toys and tchotchkes into more-sophisticated appliances, auto parts, and semiconductors. China's consumer class, meanwhile, is spending like lottery winners on everything from bagels to Bentleys—and will soon outnumber the entire U.S. population. China's explosive growth "could be the dominant event of this century," says Stapleton Roy, former U.S. ambassador to China. "Never before has a country risen as fast as China is doing."

A communist rival—with wealth—is a new worry for Washington. Some fret about another Soviet Union in the making, flush with cash for missiles, satellites, and other advanced weapons—as well as a target to use them on: the island of Taiwan, which China considers a renegade province. Defense Secretary Donald Rumsfeld claimed earlier this month that China's military budget is much higher than it acknowledges—probably the third biggest in the world. "Since no nation threatens China," he mused, "one must wonder: Why this growing investment?"

Yet there may be even more at stake in an economic confrontation with China. Since the expiration of long-standing trade quotas in January, Chinese textile imports to the United States have leapt by 48 percent, prompting the Bush administration to enact new quotas to protect U.S. jobs. Washington and Beijing have also been lobbing verbal missiles over China's fixed exchange rate, which makes Chinese products even cheaper than they'd be with a floating currency.

The booty in this battle is jobs and prosperity. A recent report by the National Intelligence Council warns that by 2020, the rise of China could drive the world's most powerful companies to lean more toward the east than the west, cause more displacement of middle-class workers in the United States and Europe, and



GOLD RUSH The magnificent Shanghai skyline is reflected on the Huangpu River. Flush with cash, Chinese buyers are spending money like lottery winners.

元 China's **ECONOMY** is expected to surpass Japan's by

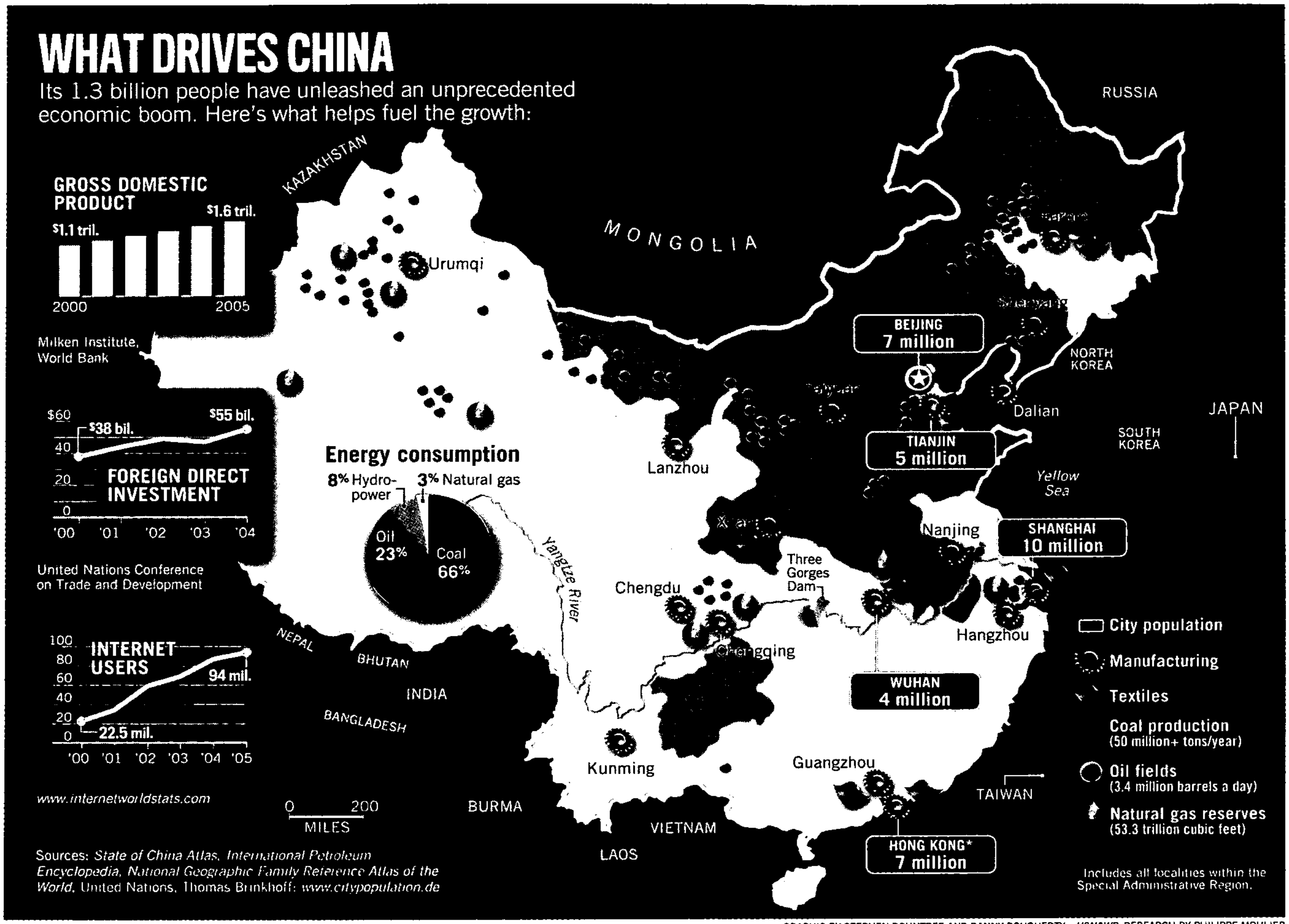
make Washington "increasingly irrelevant." Congress has formed a panel to monitor China's economic policies, and one bill, which has bipartisan support, would slap hefty fees on all Chinese imports. "It will not be Communist militarists that most threaten the U.S. standard of living," Ted Fishman writes in the bestseller *China Inc.*, "but a Communist-capitalist rival that is a much more formidable economic competitor."

Open for business. Strange, then, that the planefuls of American business experts flocking to China are discovering a country that greatly resembles . . . their own. Premier American corporations like Microsoft, General Electric, and IBM have arrived in China not so much for the ubiquitous 50-cents-an-hour assembly workers as for the English-speaking engineering talent and, of all things, a pro-business political climate. World-class manufacturers like General Motors and Motorola are more interested in building products to sell to the Chinese than to ship back home. Businesses worry more about missing out on "the Chinese century" than about losing their way in terra incognita. "This is the late-19th-century United States, except that it's happening on a faster and broader scale," says Marshall Meyer, a professor at the Wharton School. "It's Chinese manifest destiny."

To rejuvenate its dormant state-run economy, China in the 1980s began wooing foreign multinationals to form joint ventures with Chinese companies, most

MORE ONLINE. *U.S. News* and the Levin Institute have assembled a group of experts to respond to your inquiries about China. Questions can go to ***china@usnews.com.***

020, becoming the **SECOND LARGEST** in the world.



GRAPHIC BY STEPHEN ROUNTREE AND DANNY DOUGHERTY—*USN&WR*. RESEARCH BY PHILIPPE MOULIER

of them government owned. That gives China the "last-mover advantage," says Spencer White, Asia Pacific chief equity strategist for Merrill Lynch. Homegrown firms extract business know-how from those who have perfected it, offering access to the Chinese market in return. "The size of their market makes them uniquely assimilated to attract technology," says White. "China knows it can just drop a couple of huge orders, and it blows away the critics."

Government directives over the past decade have prodded China's closet capitalists to test their entrepreneurial mettle. In the mid-1990s, when it became evident that lawyers were scarce, the government encouraged people with legal training to start practicing law—which few were doing. It worked. Ji Zou had graduated from law school in Beijing in 1990, but law was considered a shabby profession at the time, and only a few of the graduates in her class of 160 went to work as lawyers. So Zou moved to New York to work as an attorney. In 2003, she returned to China, eventually joining Paul, Hastings in Shanghai. Now, she says, nearly 70 percent of her old classmates have rejoined the legal profession, typically earning $35,000 per year or more—plenty, in Shanghai, for a car, nice house, and a few luxuries.

Fleeced. Command capitalism doesn't always work. In 2000, the government instructed China's four state-owned banks to start offering car loans to juice growth in the automotive sector. Car sales exploded—but the banks were massively fleeced by phantom borrowers who disappeared with their new cars. Still, forced enterprise is not a bad second to free enterprise. A 2002 "go global" campaign led by Premier Hu Jintao, which urged Chinese firms to explore other markets and develop new brands, has brought a number of Chinese firms to the world stage. Chinese computer maker Lenovo grabbed the spotlight late last year when it agreed to purchase IBM's personal computer division.

Former party leader Deng Xiaoping, who first put many of China's economic reforms in place in the 1980s, famously told his compatriots, "To get rich is glorious." Now that some are finally figuring out how to do it, a booming professional class is starting to generate an information society tailor-made for western services firms. When AIG, the huge New York-based insurance company, first got a license to operate in Shanghai in 1992, most Chinese didn't even know what insurance was. Now, with more personal property and fewer state pensions, "people here are starting to realize, 'Hey, I have

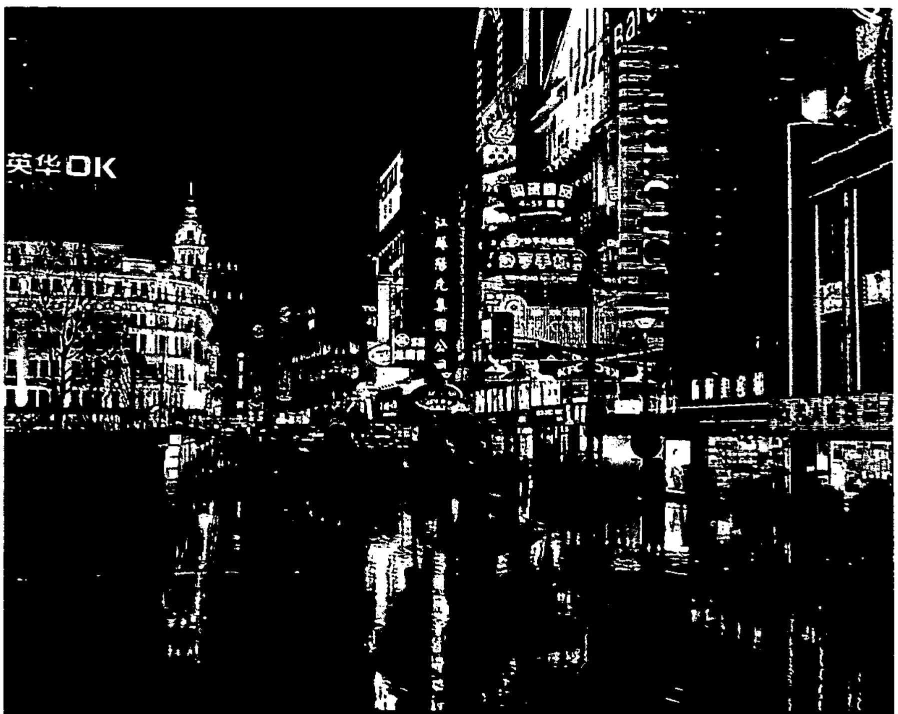
元 China has **16** of the world's most **POLLUTED** cities.

A Capitalist Paradise

THE URBAN MIDDLE CLASS HAS A LIFESTYLE THAT LOOKS FAMILIAR

BEIJING—Four-year-old An-An is tearing through the store, looking for toy cars. His mother, Dong Wei, chases after him, dodging couples measuring kitchen cabinets and reclining chairs bearing unpronounceable faux-Scandinavian names translated into Chinese.

It is a Sunday afternoon at the Ikea superstore here, and Dong and her family are on a mission—along, it seems, with a substantial part of the rest of the city. The line for the parking lot is almost an hour long, the norm for a weekend. The store teems with families in a consumerist frenzy, armed with pencils, measuring tapes, and photographs of their new homes. Dong Wei and her husband, Cao Jie, are there to buy a bookcase for An-An and a new computer table for the study. Really. But then a television stand catches her eye, and a colorful CD rack his, and oh yes, doesn't An-An need a new bedspread?



In Shanghai's bustling Nanjing shopping district, the options are almost endless.

Dreams. Like the other middle-class couples proliferating in China, Dong and Cao are living a life their parents could never have imagined. They recently bought an apartment, which they spend most of their time decorating. They eat out often. On the weekends, they take An-An to play with other pampered only-children, at a "fun center" filled with spongy balls and trampolines. Their ambitions are less of the traditional Chinese "be a good worker and serve your country" variety. Instead they fall more in line with middle-class U.S. families who focus on making more money, buying a bigger house, and getting their kids into a good school. Dong, a 38-year-old wearing jeans, eyeliner, and a Samsonite shoulder bag, works in the Ministry of Commerce's Latin America division and travels to the region four or five times a year. Her husband worked in the government until recently but just left to start a business with a partner, selling medical equipment. "In a state-owned enterprise, it's hard to fully exercise your potential," says Cao. "In the past, we felt like we needed to hug the iron rice bowl and not let go. Now I want to see how far I can go."

A generation ago, young couples worked in state-owned enterprises, living in company housing with few possessions of their own. The most they wished for was having enough for their family to eat. With the dismantling of the state system over the past decade, more people are exploring other options—both for work and for life. Dong and Cao bought a car—"a Jetta!" An-An pipes up—back in 1997, and they aspire to save enough to buy a bigger home, so that An-An can have his own room. "Life in China is not that different from America right now," says Cao.

On the road out to the airport, new developments have sprung up over the past year or two, with names like Central Park, Yosemite, Palm Springs, and Orange County. In these planned utopias, trappings of American middle-class life are on offer: backyards, barbecues, and basements with pool tables. While some cater to foreigners and very wealthy Chinese, an increasing number are being marketed to this new tier of young Chinese families with global tastes.

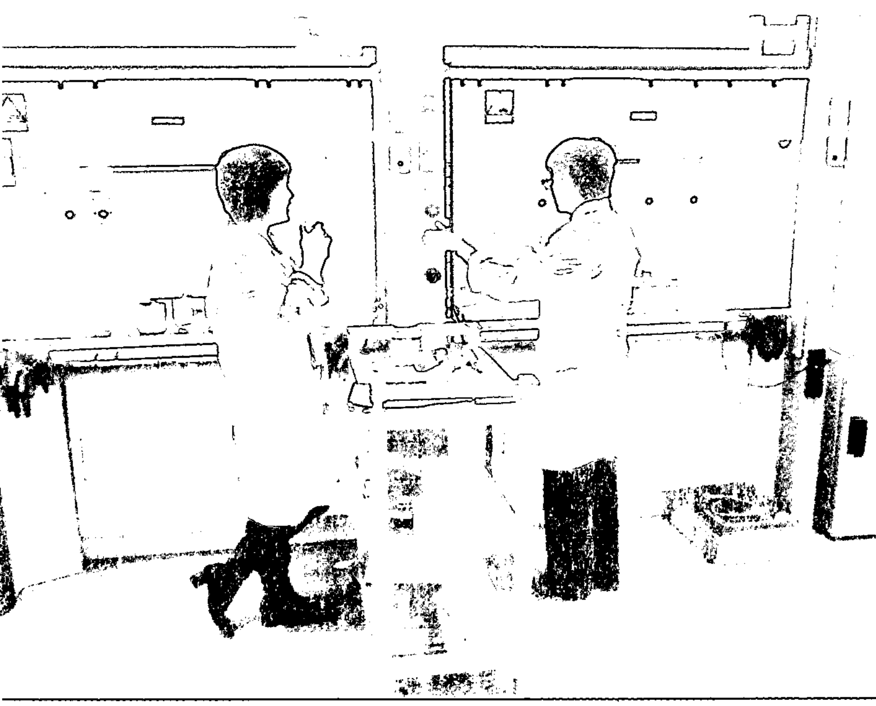
In the past, couples lived with the man's parents, even after marriage. Now, the trend is for young couples to buy their own apartments and move out. Although Cao's parents live in Beijing, they live separately. "Very few of our friends live with their parents," says Dong. "We need more space now."

They are also saving up for a lifetime of schooling for An-An, which in China, with state-sponsored education but growing disparities in its schools, can get expensive. The couple now spend the equivalent of $100 per month on kindergarten for their son, which they say is cheap compared with some of the private kindergartens currently in vogue with their friends, which can run over $12,000 for three years.

Looking to the future, they hope An-An will go overseas to study—but not until after high school, when he can decide for himself. "Our generation did not have the opportunity to learn instruments or play sports," says Cao. "Our lives are better than our parents', but I want our son to have even more freedom than us."—*Bay Fang*

PROMISE

It's not just cheap labor that is drawing so many U.S. businesses like 7-Eleven and Starbucks to China. English-speaking engineering talent and a pro-business political climate are luring companies like General Electric (below) to invest millions, and many are more interested in selling their finished products to Chinese consumers than in shipping them back home. Worried about missing out on "the Chinese century," everyone from brewers like Coors to laptop manufacturers and securities dealers is rushing like mad to get in.



these things I could lose,'" says Chia-Yan Chang, AIG's chief officer in Shanghai. "And it's not going to take China 30 years to catch up."

AIG's sales in China hit $500 million last year, and like other western firms, it's looking to double China revenues every year—a nifty offset to setbacks elsewhere, such as the accounting scandal that has engulfed the company in the United States. In China, many of AIG's 2,400 agents, in eight cities, have master's, medical, or law degrees. Some agents make over $100,000 per year.

Copycats. As always in China, there are growing pains. Local competitors have copied AIG's policies word for word—seemingly anything can be pirated in China—and priced their coverage cheaper. Several high-profile scams have soured consumers on insurance. And AIG still is not allowed to sell lucrative group policies to companies or other organizations. Senior executives, however, are undeterred. "It will become the largest market in the world over a couple of decades," predicts Edmund Tse, AIG's senior vice chairman.

Executives in countless other industries believe the same thing. Citigroup expects China to become one of its biggest markets—and sees a rare opportunity to be present at the creation of a consumer jug-

元 In China, there are an estimated 2 MILLION people

gernaut. With a savings rate higher than 30 percent—compared with less than 2 percent in the United States—China has a vast fortune in its bank vaults. But most accounts are simple savings plans earning minimal interest. Citigroup and dozens of other financial service providers hope to offer more-sophisticated accounts producing better returns once the Chinese banking sector opens fully to foreign competition by the end of 2006, the deadline set when China joined the World Trade Organization four years ago. Of course, savings may drift down as Chinese consumers learn how to shop—but Citigroup hopes to get a cut of that action, too. Fewer than 5 percent of Chinese have a credit card, compared with 80 percent or more in the West. Citi is already pitching plastic in Shanghai in partnership with a local bank.

The lopsided U.S. trade deficit with China and the "offshoring" of manufacturing work there have focused attention on lost jobs and the fading fortunes of industries such as textiles, decimated by cheap Chinese imports. But America's interdependence with China has benefits, too. Cheap goods keep U.S. inflation and interest rates low. And the growth of China's service sector—likely to be heavily fueled by American companies—will bring a well-heeled new consumer to the

hose net worth is at least $40 MILLION

global market, with less threat to American jobs. "China will be a second driver of economic growth in the world after the United States," says Richard Stanley, CEO of Citigroup China. Stanley claims the 2001–2002 U.S. recession would have been worse if not for Chinese demand for goods from America and elsewhere.

Big companies come here for the people, too. General Electric opened one of four global research centers in Shanghai in 2002 to serve the Chinese market but also to tap into Chinese talent. Universities in China issue about 160,000 advanced degrees every year—four times as many as in the United States. And they're not knockoff diplomas. "The quality of university graduates is every bit as good as in other countries," says Bijan Dorri, managing director of GE's China Technology Center.

Flying high. At a brand-new glass-and-steel structure in Shanghai's Pudong area—a swamp until it was filled in and started sprouting skyscrapers 10 years ago—600 engineers, most of them Chinese, do groundbreaking research on electronics, solar energy, plastics, and other advanced materials. Typical pay is about $35,000 per year. One major project involves GE-made jet engines that China is buying for the 100-passenger ARJ-21 jet, the first Chinese-built airliner. GE originally designed the engines to be mounted on the wings and engineers here are figuring out how to retrofit them to the fuselage, to satisfy the Chinese design.

GE plans to staff up the Shanghai lab by about 25 percent this year—but not at

STRUGGLE Migrants from Anhui province, many of whom speak different dialects, work building railroad tracks. They earn about $4 a day; $1of that goes for food.

The Floating People

SHANGHAI—He has a rice sack for a suitcase and squats on it. He has sun-reddened cheeks and tattered sneakers. He is one of hundreds of migrant workers who crowd the Shanghai Train Station on a sunny, cold afternoon, chatting in different dialects, playing cards, napping with their heads in their laps.

Wang Chuanli is from Anhui, a rural inland province. In his village, almost all the men leave the land to seek construction jobs in cities around the country. "Everyone goes home in June to plant the soybeans. When that's done, when it's getting hot, we leave again. We come back to harvest the soybeans and plant corn. That is done by October 15, and then we leave for another three months," says Wang. "We flow like water."

China has 114 million migrant workers—or, as they are known here, the "floating population." All around Wang sit men from different areas of China, men who have built the tall buildings that dominate Shanghai's skyline but feel none of its prosperity. They are often undocumented and unpro-

the expense of U.S. jobs, according to Dorri. "It's not like we have stopped hiring in the U.S. and are hiring people here," he says. "We need more talent wherever we can find it." Some of GE's employees even prefer China to the States. Chang Wei, an electrochemist, worked at a GE lab in upstate New York for several years, then came here two years ago. "It's where the growth is right now," he says. "It gives me more responsibility and helps me grow."

There are still plenty of danger zones for western firms coming to China. Companies like Intel and Microsoft are so worried about theft of key technology that they won't even do certain kinds of research in the country. Motorola's experience is a cautionary tale studied by many newcomers to China. The company led the market for cellular phones in the 1980s and '90s. But as it invested millions of dollars in local suppliers, those companies learned the business and began to offer their own phones—much cheaper than Motorola's. The local firms have since captured many of the smaller markets and are gobbling up business in big cities, too. Meanwhile, stealing of intellectual property is a problem that's getting worse, not better, according to a recent report by the American Chamber of Commerce in Shanghai, which represents U.S. business interests.

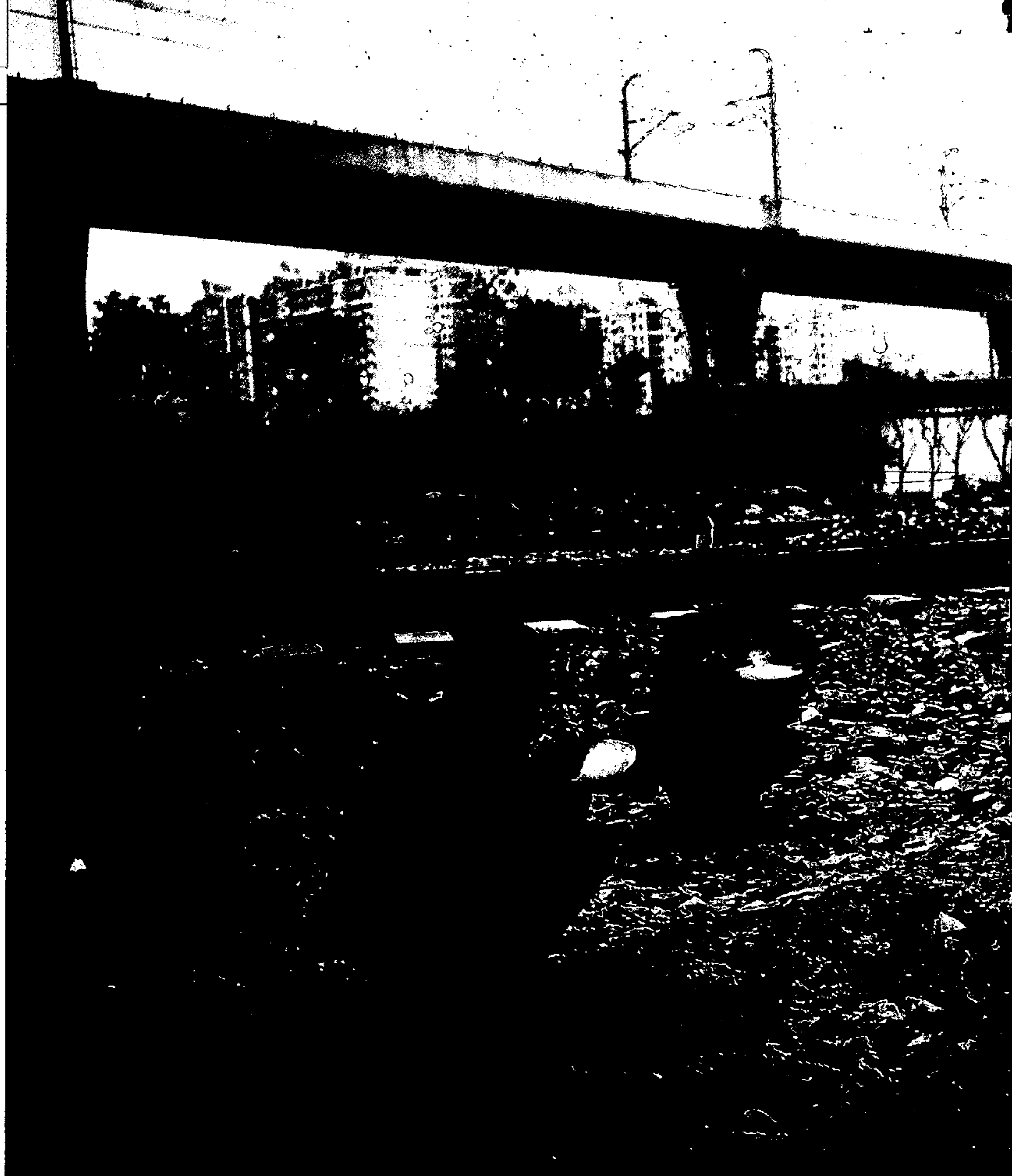
Credit check. The peculiarities of the Chinese market also force creative workarounds. Last year, General Motors

tected by China's labor laws. The going wage for a temporary construction worker such as Wang is 5 renminbi, or 60 cents, per hour.

Acceptance. China's widening wealth gap has fueled riots across the country, but Wang is not the complaining sort. Life is pretty good, says the 43-year-old with matted hair. He lives in a room with five bunk beds, housing 10 men. "We all run into each other on different construction sites. There's one guy I've run into three years in a row!"

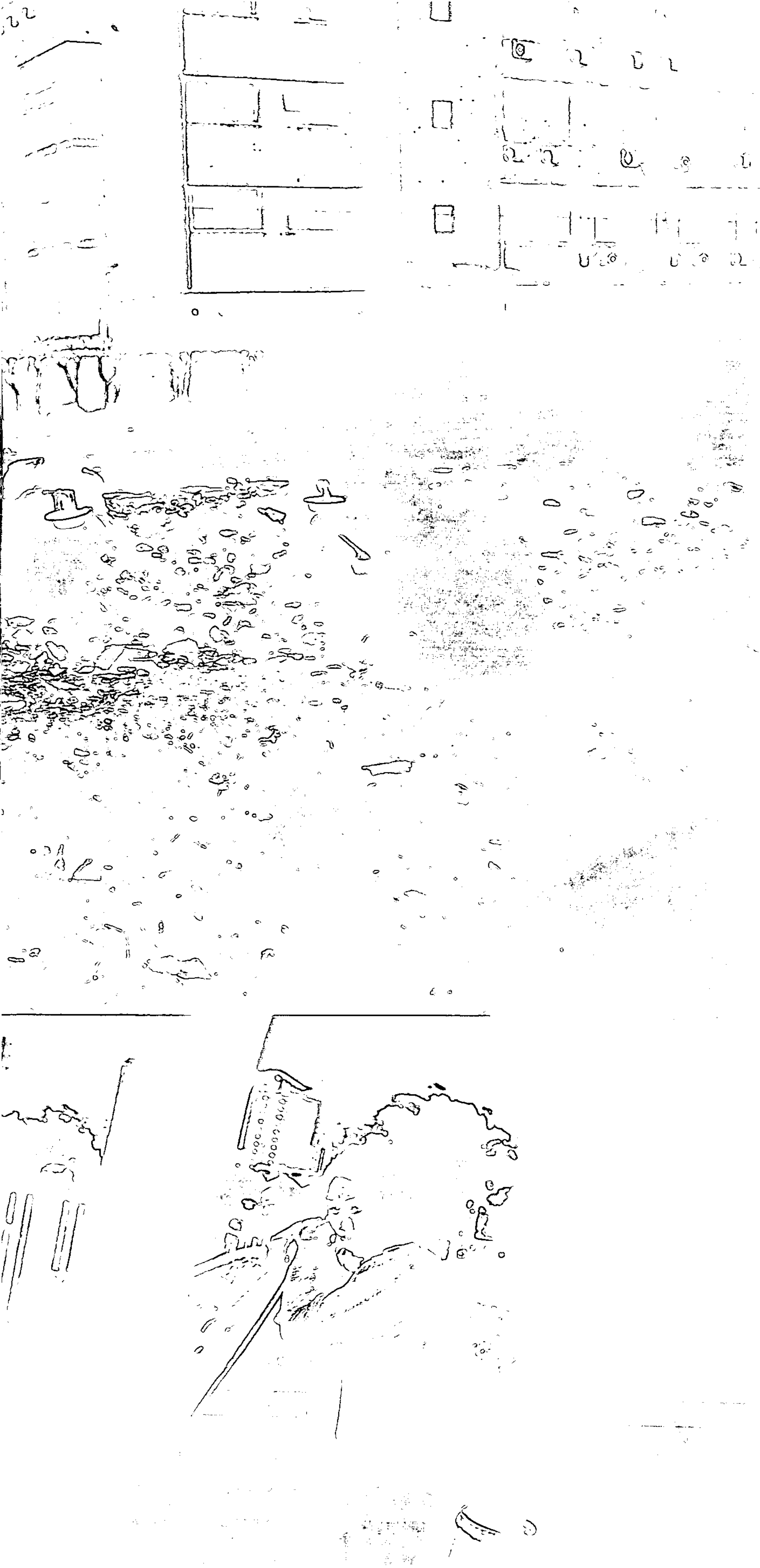
Wang has a wife, a 15-year-old son, and a 13-year-old daughter—to whom he sends money every month, like the other men. He wants a better life for his children, but he worries they will follow his path. Wang went to junior high, but he did not pass the high school exam. "Everyone has dreams when they are young," he says, gesturing earnestly with hands with dirty fingernails. "I wanted to learn a trade, be really good at it. But you have to adjust your dreams to reality—so I learned how to build houses."

The light is fading, and it is time for him to eat. He hoists his sack over his shoulder and melts away into the crowd of men with matted hair and tattered sneakers. *–B.F.*



MIGRANT MISERY

In the little time they spend not working, some migrants play cards or grab a quick meal on the job, but for most, life is a matter of long hours and tough, bone-numbing work. Many find jobs razing old sections of boomtowns like Shanghai to make way for all the new hotels and office buildings still on architects' drawing boards.



Acceptance Corp., the automaker's highly profitable lending arm, got the first license issued to a foreign company to grant auto loans in China, where most people still pay cash for cars. Doing credit checks in China, however, is almost as labor intensive as building a car. Since there are no established credit bureaus, field investigators check out every applicant individually. They visit homes, making sure somebody actually lives there, and even check out their employers' offices if something looks fishy. Christian Weidemann, president of GMAC-China, recently turned down one applicant after looking at photos of his

China had 269 MILLION cellphone users in 2003. There'll be 500 MILLION in '08.

workplace taken by the field investigator. "There were no pictures on the walls. It felt like nobody worked there," he says. "We were the first to open, but we don't want to be the first to get burned."

Still, many of the old hallmarks of Marxist planning are quickly being junked. Nearly 2,300 outdated laws have been repealed since China joined the WTO, according to Dion Wiggins of the Gartner Group, the U.S. consulting firm. Just five years ago, companies constantly hit roadblocks the government called "internal documents"—secret laws, often meant to protect some apparatchik's personal empire. "We never run into that anymore," says Mitch Dudek, a partner at Paul, Hastings in Shanghai. The central government even seems to be purging corrupt officials—proving that communism can still be ruthless. Last year the government executed four bankers accused of fraud.

Foreigners are usually treated much better. Shanghai woos western conglomerates with favorable tax treatment and other perks, the same way American cities and states compete to lure businesses. Western firms often discover that when it comes to business, an authoritarian government isn't such a bad thing. "Usually, if the government says a road is going to be built by September, it will," says Jerry Nissen, a former U.S. investment banker who is executive director of

SmartLink International Holdings, a Shanghai-based consultancy. "There's no second party to create opposition."

The more warmly China's leaders embrace capitalism, however, the more standing they have to pursue territorial or political goals at odds with Washington. In March, the Chinese government adopted a resolution stating its right to use force if Taiwan were to declare its independence. A war with Taiwan, or even an outbreak of anti-Taiwan fervor, is one scenario that could unnerve western businesses. Recent anti-Japanese protests have also worried China's trading partners.

FAST LANE For Shanghai's well heeled, there's no end of things to do and places to spend money. Slick nightclubs draw the young and trendy after work and late at night.

And there are limits on how rapidly China can become an economic superpower and employ the geopolitical muscle that comes with such status. Most big Chinese firms, for instance, are a web of entangled interests, both party and private. "The question about Chinese corporations is always, Where does it begin, and where does it end?" says Marshall Meyer of Wharton. "The line between the government and the corporation is very indistinct." That makes it difficult for firms to get listed on respectable stock exchanges and to raise public money through equity offerings or bond issues. Sometimes it's hard to tell whether a state-owned company is even profitable, since published financial results don't always add up. The lack of standardized accounting and a robust, transparent financial system could keep China out of the world's economic big leagues for a long time. "People see China running," says Jeffrey Bernstein, chairman of the American Chamber of Commerce in Shanghai, "but they don't see how many heavy bags they're carrying."

Big brother. There are also limits to how much control the Communist Party is willing to relinquish. More than 30,000 government censors, for example, monitor Internet and E-mail traffic, which is filtered through eight gateways that the government can shut down at will—making China the only country in the world able to effectively monitor its citizens' E-mail. A true test of the party's commitment to free markets will be the growth of China's own companies. "The question is, To what extent can China tolerate the globalization of its firms, since then you lose control?" says Denis Simon, provost of the Levin Institute, the inter-

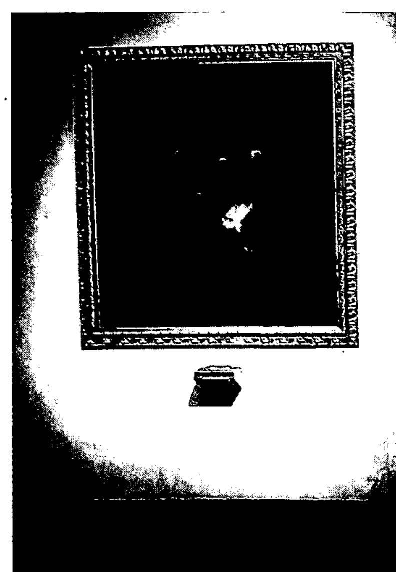
The Shanghai High Life

THE GLITTERATI FIND THE CITY TO THEIR LIKING

SHANGHAI—Lily Wang is looking at pigs' brains. She wears high heels and a coat with a fur-lined collar, and she clutches a pink handbag in one hand and a champagne glass in the other. The 28-year-old is strolling through an exhibition of avant-garde art in Shanghai, surrounded by dozens of Shanghai's best and brightest. They stand in small groups chatting, westerners and Chinese together. The sound of Mandarin and Shanghainese is peppered with English and Taiwanese slang.

Wang is a typical Shanghai yuppie. She's browsing a gallery in a newly renovated building project called Three on the Bund, which also houses an Armani store, the first Evian spa in China, and a restaurant opened by world-renowned chef Jean-Georges Vongerichten. The restaurant is filled with well-heeled diners feasting on fancy fusion cuisine against the backdrop of the city's sparkling skyline.

Not long ago, the only Chinese who could afford this kind of restaurant would be government officials getting drunk on state money, or perhaps a celebrity. But now over half the clientele is local. "What's evolving here is the concept of spending for lifestyle," says Handel Lee, cofounder of Three on the Bund. "We're coming out of a nation of want, where the mentality was to save, because you don't know if you will

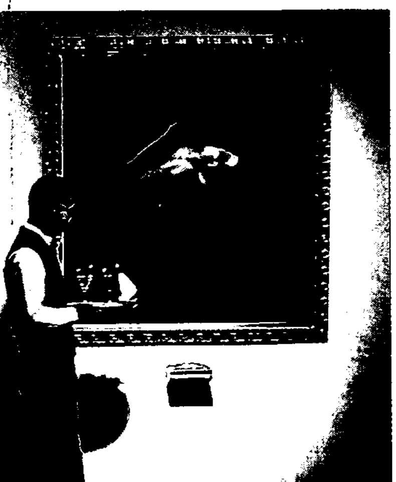


An art gallery opening at a brand-n

national relations school at the State University of New York. "These companies are going to face major challenges as they go overseas. They're going to have trouble maintaining their Chineseness."

For all its talk about market magic, China's overpopulated state sector is a massive job bank compared with western governments, which leaves some of the Beijing's byzantine ministries woefully inefficient. One Indian software supplier, for instance, tried to sell the Chinese government a program to automate parts of the state-owned railroad industry, which employs 20 million people. The idea flopped. "Greater efficiency creates a social problem," explains an executive for a major American software company. "Yes, 20 million are inefficient, but a more efficient system lops off heads."

If China's leaders truly aim to create the Chinese century, the Communist Party itself will probably have to recede into history. One scenario outlined by the National Intelligence Council: an "Asian way of democracy" with elections at the local level and a looser central government. Some think the party is already irrelevant. "I don't think communism really exists anymore," says a former senior official at the Bank of China. "At a certain point, being a party member is a burden. If you're related to the party, you're not doing business." And if you're not doing business, you're not cutting it in China. ●



anghai restaurant-retail complex

lose everything tomorrow."

On the main thoroughfare of Nanjing Road, Maserati and Ferrari showrooms alternate with sprawling Hugo Boss and Louis Vuitton stores. Neon signs blare advertisements for everything from Haagen-Dazs ice cream to the newest golf resort.

Worldly friends. Wang spent her afternoon shopping. She has round eyes, long black hair, and friends from all over the world. Though she's from a small city in neighboring Zhejiang province, Wang went to college in Beijing, then got a master's degree in management in France. "In the past, a lot of people would go and not come back. But now, there are more opportunities here than overseas," she says in fluent English. Her Shanghai friends are also well traveled.

And independent. While a few years ago, a young woman shopping for Prada handbags was inevitably on the arm of a tycoon from Hong Kong or Taiwan, today's yuppies earn their own keep. Wang works for a real-estate company called Inexco and opened the company's office in Shanghai last year to look for investment opportunities. In a city where skyscrapers multiply as if they were created by a computer game, the company is looking into residential and warehouse space. It pays her an annual salary of about $35,000 and puts her up in a serviced apartment downtown. This leaves her with cash to spend.

It also leaves her with the freedom to choose her own lifestyle. Like many of her friends, Wang is in no hurry to get married. Her most recent boyfriend was American, but he is no longer in Shanghai. "You lose your freedom when you get married, so I'm taking it slow," she says. "And in the meantime, I'm really enjoying myself!" *–B.F.*

What to Do About China

By Richard N. Haass

A good deal of history is determined by relations between and among great powers. The 21st century promises to be no different. The most critical relationship will be that between the United States, today's dominant power, and China, the world's rising power. And have no doubt about it, China *is* rising. China's gross domestic product is roughly half that of the United States, but in three decades, the total value of the goods and services it produces should be about the same. China is also converting some of its wealth into military might. It now boasts the third-largest military budget in the world.

At the same time, it is important not to exaggerate China's accomplishments. Income per capita is less than $5,000. China's leaders understand that the country requires a generation or more of peace and stability so that it can focus on economic growth and help its hundreds of millions of poor people.

Still, foreign policy "realists," citing history, argue that China will inevitably challenge American primacy and that it is a question of "when" and not "if" the U.S.-China relationship turns competitive or worse. Their conclusion? The United States should seek to prevent China's rise.

One problem with this thinking is that the rise and fall of countries is largely beyond the ability of the United States or any other outsider to control. The performance of states is mostly the result of demographics, culture, natural resources, educational systems, economic policy, political stability, and foreign policy. It is not clear the United States could prevent China's rise even if it wanted to. But should the United States want to? The answer is no. For one thing, attempting to block China's rise would guarantee its animosity and all but ensure its working against U.S. interests around the world.

Test case. More important, the United States shouldn't want to discourage the rise of a strong China. America needs other countries to be strong if it is to have the partners it needs to meet the many challenges posed by globalization: the spread of nuclear weapons, terrorism, infectious diseases, drugs, and global climate change. The issue for American foreign policy shouldn't be whether China becomes strong but how China uses its growing strength.

Working with India, Japan, and others, our goal should be to integrate China into the international system, to make it a pillar of the global establishment. China is already working with the United States against terrorism, but the most pressing area for expanded cooperation is North Korea. The problem is that China isn't using its considerable economic ties with North Korea to pressure it to stop developing nuclear weapons. It needs to do more. The United States should also do more to change China's stance: by offering North Korea some attractive incentives to give up its nuclear materials and weapons, by reassuring China that if that happens, Washington will oppose the emergence of any new nuclear-weapons state in the region, and by underscoring that this is a test case for U.S.-China ties.

The other issue that could seriously hurt U.S.-China ties, or even bring the two powers into conflict, is Taiwan. Taiwan must be pressed not to take unilateral steps that would be tantamount to independence and risk a military response from the mainland. China needs to be reminded not to use force to unify the country. Neither China nor Taiwan should count on Washington standing aside if they change the status quo.


With Shanghai's explosive growth, old parts of the city are razed every day.

Yet another source of growing irritation is trade. China now exports to the United States some $160 billion more than it takes in. What's important is that U.S. exports to China enjoy fair access and that disputes are settled by the World Trade Organization. What we want to avoid is having trade becoming a source of friction rather than integration.

A final consideration is China's domestic politics. China is more open economically than politically and more open politically than it was a decade ago. But it has a long way to go. The best way to promote democratization is by bolstering the middle class, extending the rule of law, and limiting the role of the state. Such political evolution is crucial; as the lure of communism fades, it is important that nationalism not fill the political and ideological void.

This is easier said than done, of course. The rise of Chinese nationalism is a reminder of just how difficult it will be for America and China to reach an accommodation. A U.S.-China cold war would be costly, dangerous, and distracting, robbing attention and resources from pressing internal and global challenges. Both countries have a stake in avoiding this outcome; the course of this century will depend in no small part on whether they succeed. ●

Richard N. Haass is the president of the Council on Foreign Relations and the author of The Opportunity: America's Moment to Alter History's Course.

these clients come up with ideas by talking to them in chef.

"The language that a chef will use speaking to another chef is very similar to what a doctor might say to another doctor," says Swartz. "The understanding on both sides helps to generate ideas that build upon themselves." So, for example, the conversation on a recent call turned to how much food restaurants throw out. Swartz and his client began toying with ideas to reduce that waste, among them the possibility of creating a beurre blanc that is spreadable cold and so can be refrigerated after each use. Swartz punted the idea to R&D—and a spreadable beurre blanc just launched.

The chef-to-chef conversations have proved so fertile that when Swartz isn't available the company now routinely sends an R&D chef along with the account manager. Both founders also do stints in their clients' kitchens, scouting for ideas and insights as they work alongside the line chefs.

Swartz and Daniel scout for ideas not just among their customers but also out in the broader world, where thousands of next new things are waiting to be discovered. Few industries are globalizing as rapidly as food: U.S. restaurants offer everything from Spanish foams to Mongolian barbecue, while specialty retailers brand themselves as purveyors of the exotic. Under Goh, the company's annual travel budget is in the hundreds of thousands of dollars and managers have visited more than a dozen countries. (The only executives who rarely go anywhere are Goh himself and the CFO.) "Half the time I have a customer in tow so I can see how he or she responds to things firsthand," says Daniel, who last year spent 27 weeks on the road.

Two Chefs' transformation was not painless, of course. Most of the stress built up around people issues. Goh had determined to go the *Good to Great* route and assemble a top-notch management team before embarking on strategy. Specifically, he needed people accustomed to the kind of high-performance operation Two Chefs wanted to be. In some cases that meant big-business experience at places such as Unilever, General Mills, and Mars. In others it simply meant willingness to accept more structure and hierarchy.

But many employees fit neither criterion. Goh fired some; others fled what they perceived as encroaching corporatism. In 2003 and 2004 the controller, the director of sales, and 10 out of 25 key managers left. "Some people liked it better when it was smaller and we could all meet together in one room and decide things for the company," says Goh. "Other people discovered that we needed a higher skill level or a little more experience. That was just attrition as we moved to a much larger business." Still, he concedes, "it should have been less."

The hiring process, meanwhile, took longer than expected. Goh recalls sitting late one night in his office after firing a direct report and "thinking to myself, I have more vacancies on my executive team than positions filled." Haunted by the leafless branches of his org chart, Goh fought the urge to start hiring just to fill the slots, just to be done with it. He succeeded, though it meant he spent months searching for talent.

Daniel and Swartz accepted their colleagues' departures with stiff upper lips and sometimes trembling lower ones. And while they abided by Goh's hiring decisions, they didn't always agree with them. "We would have new employees in particular positions and I wouldn't see how they could be successful," Daniel recalls. "And Jeff would say, 'They're doing fine. Just let them be.' And I would say, 'I don't see how it's going to work, and if I don't see it, I don't see it.'"

Elsewhere in the company, changes were less seismic but still felt. The enterprise resource planning system, a behemoth brought in to manage processes as varied as resource planning and allergen management, altered the day-to-day work of whole swaths of the company. Approximately a quarter of the work force—many with very little computer experience—found themselves wielding scanners and pecking at keyboards as they processed more than 40,000 discrete "transactions" each month. Training remains a work in progress.

By contrast, the other huge disruption—moving to a new factory—emerged as change management at its best. Goh and Swartz made sure everyone interested had a say in designing the plant, and as moving day approached they and Daniel brought groups to tour the facility and hold parties in the new parking lot. Employees grasped one another's hands to see how far their human chain would stretch across the vast space. Some raced around the empty rooms on bicycles. "People cheered," Goh says. When the move at last took place in early 2003, Two Chefs didn't miss a day of production.

Exhilaration over the move has naturally abated, but morale is buoyed by the company's growth and rising industry profile, say the founders. And now that they've absorbed the shocks, Daniel and Swartz are punch-pleased with their own roles in the new regime. More than two decades after launching the business they finally have the luxury to think strategically. Relieved of his go-to-guy mantle, Swartz can follow his interests into any department and choose whether to participate or simply observe and advise. Daniel spends time just talking to employees, with whom she enjoys warmer, more relaxed relationships now that "we're no longer the bosses and the heavies." She's also emerged as the company's public face at industry events.

Perhaps ironically, the founders have come to embody the brand more than at any time since they were inventing four-layer pies in their tiny rented kitchen. On the conference circuit, in clients' offices and kitchens, and on their website (designed by Daniel) the two talk endlessly and animatedly about, not the business of food, but rather food itself. Their message is simple. Because the company is what it is, customers can count on 10,000 pounds a week of reheatable crème brûlée. Because Daniel and Swartz are who they are, customers can trust it will be satin on the tongue.

People visit the plant to inspect its operations, says Swartz. But the first thing they always ask is, "Who are the two chefs?"

Leigh Buchanan is an Inc. *editor-at-large.*

> Two Chefs wanted to nurture the good kind of chaos—the openness to exploration and ferment that kept the new-product pipeline primed.

Relax. Let your guard down

Why patents, trademarks, and other intellectual property protections are bad—that's right, *bad*—for business

By David H. Freedman

BY MOST MEASURES, the Sten was a forgettable product. This British submachine gun, thrown together for World War II, was wildly inaccurate and so unreliable that the only thing troops counted on from it was a jam at the worst possible moment.

Yet the Sten was one of the true hit products of the mid-20th century, and with a run of some 4.5 million, it became one of the all-time bestsellers in the world of weaponry. By contrast, the U.S.-made Thompson M1 machine gun and its variants, used by American troops in World War II and a more accurate and reliable weapon, saw a run of only 1.7 million in its half-century lifetime. How could a gun as lousy as the Sten sell so well—and even outsell the M1? One big reason: It was easy to copy. The Sten's blueprint was widely circulated, and the gun was purposely designed to be easily manufacturable by anyone with modest metalworking skills and tools, making it the darling of resource-strapped Allied units. Though none of these Sten-alikes produced royalties for the weapon's originator and maker of record, London's Royal Small Arms Factory, the Sten's sheer familiarity became such that after the war Britain and other countries around the world ordered it from the factory by the truckload well into the 1960s, making the Sten a gold mine.

And therein lies a lesson for entrepreneurs today. Though companies continue to treat intellectual property as an asset to be kept out of the hands of others at all costs, there have long been compelling reasons that such aggressive IP protectiveness is not only unnecessary but also counterproductive. Today we're in the midst of a shift in which the potential benefits of relaxing IP paranoia are becoming less of an interesting exception, à la the Sten, and much more the rule.

That may sound like a strange claim, given the near-frenzied

MIKE KEMP/GETTY

attention paid to the value of intellectual property today, as well as to efforts to bolster our patent and copyright systems. Some $5.5 trillion worth of IP is said to be rattling around the computers and file drawers of U.S. companies, accounting for just under half of the nation's GDP. About twice as many patent-related lawsuits were filed last year as in 1992, suggesting companies are more determined than ever to keep others' mitts off their good ideas.

And yet the simple truth is that companies rarely succeed because they succeed in protecting intellectual property, or fail because they do not. Ninety-five percent of patents end up being of absolutely no commercial value. Even in high tech, where IP is king, the best rule of thumb for patent protection is: Don't bother. "A long period of patent protection for a new technology isn't all that useful because a newer technology will quickly displace it," says Glen Whitman, an associate professor of economics at California State University, Northridge. "The faster the pace of innovation, the less important will be the patent." To put it another way: Superb execution trumps IP protection every time.

That's because it usually isn't individual big-bang product ideas in and of themselves that make or break a company; rather, it's a constant stream of smaller good ideas in any and all areas of the business. According to a study by researchers at Boston University and Princeton, patent protection is of little or no benefit when it comes to such an ongoing string of ideas—which makes sense, given the time it takes to get a patent into place and the relative perishability of any single idea.

Why do so many companies become obsessed with patents? In part, it's because they don't really understand their own business, says Danny Shader, CEO of Good Technology, a wireless software maker based in Santa Clara, California, and the main rival to Research in Motion's BlackBerry in the handheld e-mail market. "A lot of people think they're in the invention business, but they're really in the application business," says Shader. "They confuse innovation with patents, and that's a classic mistake." Profitable innovation comes not from inventing a new product, he maintains, but from having a team of smart employees who figure out how to do a better job every time they interact with customers. "That sort of innovation will do a lot more for your company than a piece of parchment," he says.

It's not just that IP protectiveness is useless; it can be harmful, too. Companies that work to put walls around their IP tend to make a lot of enemies. Look no further than Bill Gates, who started sowing ill will as a student hacker when he refused to let other programmers use his code, in gross violation of all that hackers hold sacred. A continued trail of IP bullying has left Microsoft one of the world's most resented corporations. It's hard to argue that the company has failed because of this enmity. But it helps explain why Microsoft software now suffers so many hacker attacks that the company has designated one Tuesday a month as "Patch Tuesday."

It's not just the big guys that can offend with a mania for protecting whatever they might consider to be intellectual property. Make an online reservation with the easyGroup Companies' easyHotels in London or Basel, Switzerland, and you'll get a confirmation e-mail that includes this charming statement: "The easyGroup of companies has built up a significant reputation in the name 'easy' and has a number of trademark applications and registrations in many countries. easyGroup cannot permit others to use the 'easy' name without the group's rights being prejudiced. It follows that no use should be made of the name 'easy' (or anything similar to it) without our consent." What shouts "friendly host" and "thanks for your business" more than a gratuitous threat intended to curtail the use of the English language?

Alienating customers and potential partners are some of the soft costs of IP protection. The hard costs can be impressive too: a minimum of about $20,000 to see an application through the patent process, not counting the cost of the time of the employees who are pulled into it, and most definitely not including the potentially explosive costs of waving the patent at a defendant in an actual or threatened legal action. And remember, this is for a patent that has a 95 percent chance of being worthless. "Patents are expensive to get and more expensive to enforce," says Tom Bell, a professor at the Chapman University School of Law in Orange, California. "If I had a patentable invention, I might rationally say that I'd rather spend the money on having my engineers create something else."

IP protection, goes the conventional wisdom, preserves an incentive for companies and people to invent and create. But when you talk to the people who actually do the inventing and creating, a different picture emerges. In a 2005 survey conducted

Ninety-five percent of patents
Even in high tech, where IP is king

by the American Association for the Advancement of Science, 58 percent of researchers whose work had been affected by patents reported that their research was delayed as a result of the patent process, and 28 percent said they ultimately had to abandon their work because of it. The Boston University and Princeton study concluded that inventors tend to have a greater chance of profiting when IP protection is relaxed and the door is opened to increased competition and imitation.

Indeed, some of the very industries that are most dependent on new ideas and innovation are the least dependent on IP protection. Take the sailboat industry, where manufacturers are constantly refining materials, shapes, and gadgets in a drive to add an extra knot, a bit more stability, a cleaner line, or a longer life. One of the better-known sailboat design firms is Jim Taylor Yacht Designs in Marblehead, Massachusetts, which has produced blueprints for some 3,500 boats, many of them on behalf of leading manufacturers such as Sabre Yachts and Precision Boat Works. "I never bother with patents," says founder Jim Taylor, "and there are very few innovations anywhere in the sailboat business that have been patented." When one boat based on a new Taylor design debuted, another company bought it, took the boat apart, and soon brought out its own boat incorporating a construction technique that was a key

part of the Taylor design. Taylor says he just shrugged it off. "We don't go around sharing all our designs and ideas freely, but we don't make much of an effort to protect them, either," he says. "If someone manages to do something similar to what you've already done, then they are by definition behind you, so why should you care? I'm more interested in always moving forward."

Many large companies see the issue differently. In fact, corporate America is lobbying hard to make our patent and copyright system ever more restrictive. Big companies, after all, often have the resources to prevail in IP disputes. The notable exception, of course, is when a major company gets hit by a so-called patent troll—that is, a company that exists primarily to extort money via patents and which serves no useful role in the economy. In the most prominent recent example of trolling, RIM nearly had its BlackBerry service shut down and only survived after agreeing to pay a $612 million settlement. But it hardly ends there. About one out of five genes in your cells, for example, have been patented by U.S. organizations, typically in the hopes of squeezing licensing fees out of companies that develop drugs targeting those genes.

As a result, smaller companies trying to bring out new products, especially in high tech, often find themselves buried under the administrative and financial requirements of shelling out license fees for an ocean of processes, techniques, and gizmos covered by patents. According to a 2003 Federal Trade Commission report, the development of a single new product can entail wrestling with thousands of such patents. "It shouldn't be surprising that an intellectual property model that arose in Charles Dickens's time doesn't quite fit the needs of the information age," says David Stork, chief scientist at electronics manufacturer Ricoh's California Research Center.

Most companies would do better to channel their energies away from building legalistic fences around their creations and toward mastering the art of sharing. If you're looking for a role model, forget about Thomas Edison's patenting of the electric light bulb—a patent later ruled invalid after much ugly legal wrangling. Instead, consider the way a consortium of companies came together and agreed upon a standard socket shape for the electric plug. "Looking at IP as something to give away is not as entirely strange as it might seem," says Lawrence Rosen, a lawyer with high-tech law firm Rosenlaw & Einschlag and a lecturer at Stanford Law School. "If you can get cooperation from others on developing your product, there's the potential for your technology to become widely embraced and even ubiquitous, and you ultimately get a bigger ecosystem in which your technology can thrive." In its fullest incarnation, this sort of free swapping of work becomes the open-source approach most famously embodied in the Linux computer operating system, which companies such as Red Hat and Novell profit from—even though, in a sense, Linux is owned by everyone and no one. To be sure, the open-source approach is extreme. But it's nonetheless a useful mindset that could apply to any business.

Of course, there are some situations in which IP aggressiveness may be reasonable and even essential. The minority of industries that are driven not by marketing and customer relations and a bevy of features but by a small number of large, painstakingly developed and easily copied technical breakthroughs probably need strong protection. The pharmaceutical industry is a clear example. It takes about 10 years and the better part of a billion dollars to identify the one molecule out of trillions that works against a disease and then drag it through the multistaged testing process. Once the pill is out, it might take only a week to bring out a perfect imitation that could be sold at cut-rate prices to take over the market, since few people are loyal to any particular drug company.

But it's hard to come up with many other industries that fit this description. Perhaps the blockbuster movie business, where piracy makes it more difficult to recoup the $150 million or so needed to go into the black on big-budget films. But that's just a sliver of the entertainment business. In fact, there really are relatively few cases where easing IP protection would endanger an entire industry or class of product, even if it caused a bit of scrambling to adjust. "Most would do okay without it," says Chapman University's Bell. "Businesses wouldn't be dying, and we'd enjoy most of the products we enjoy now." Hollywood may be screaming bloody murder about the havoc that piracy will wreak, but this is hardly the first time movie moguls have warned that the sky is falling. Jack Valenti, the former head of the Motion Picture Association of America, testified thusly to Congress in 1982: "The VCR is to the American film producer and the American public as the Boston Strangler is to the woman home alone."

Even in the case of small biotech companies, IP protection need only be short term, says Robert Freedman, CEO of Hurel Corp., a biotech start-up in Beverly Hills, California. "As products mature, the balance point of competition shifts away from the uniqueness of the technology and toward the embodiment of the product into fully developed services," he says. In other words, even in big-bang technology businesses, the companies that win in the long term aren't necessarily the ones that do the inventing; it's those who figure out how to bring product improvement and better marketing and customer service to the fore.

Anyway, it may not matter what you or I think about it. It's what the kids think about it that counts. And upcoming generations are not merely less concerned with IP protection, they're appalled at the notion of locking up ideas or works. Sure, it's useful to take that point of view when you're strictly on the receiving end of pilfered IP, but anyone who tries to switch it when it's his or her IP on the line will doubtlessly be roundly booed by his or her peers. It's hard to see how this genie can be put back in the bottle. The breadth and depth of what's available online is simply staggering—including movies that haven't even been released yet, and every episode of what seems like every TV show ever made, from thousands of different sources, downloadable a dozen different ways. "The technology of sharing has changed the world," says Stork. "Business models have to change to adapt to it."

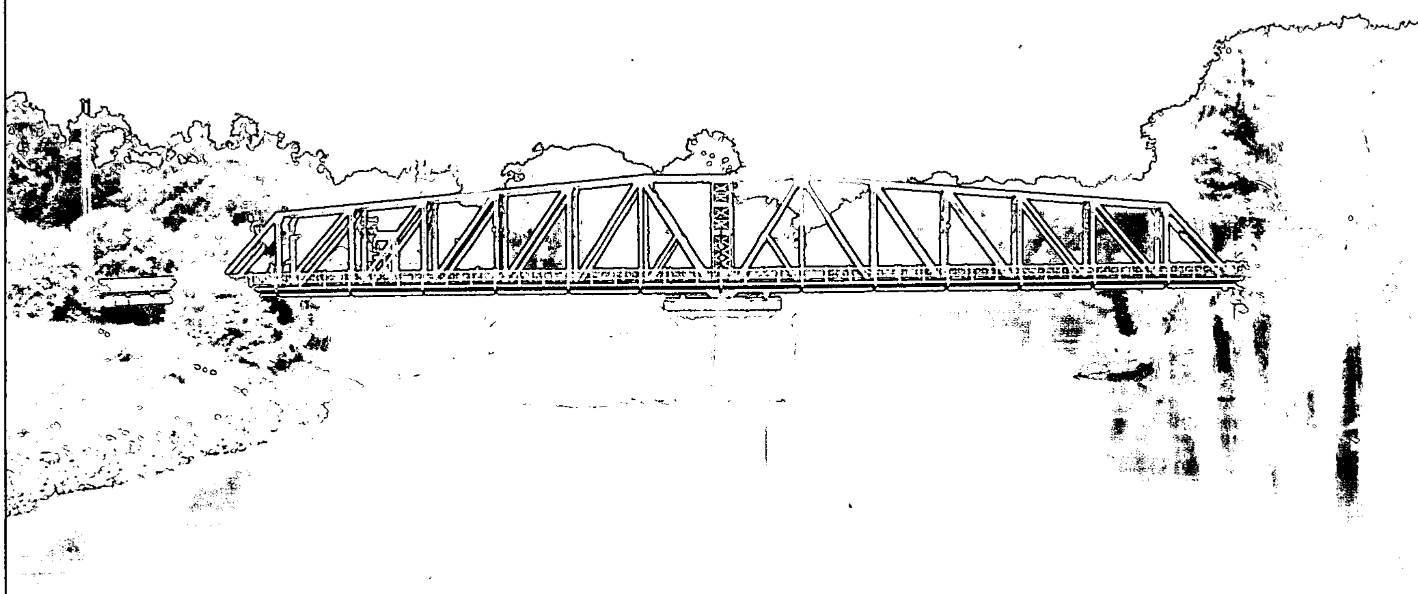
end up being of absolutely no commercial value.
the rule of thumb for patent protection is: *Don't bother.*

Contributing editor David H. Freedman writes Inc.*'s What's Next column.*

First He Built a Company

An iconic company, in fact: Viking Range, the economic engine of Greenwood, Mississippi. And then, because perhaps a local boy has a responsibility to do more, Fred Carl set about rebuilding Greenwood itself—buying and rejuvenating faded structures, setting up people in new businesses, and generally renewing civic optimism. These are the voices of Fred Carl's Greenwood

By Liz Welch | *Photographs by* Jonathan Worth



FRED CARL, PRESIDENT AND FOUNDER OF VIKING RANGE

"I was born and raised in Greenwood. My grandfather moved here from a small town about 20 miles away. He was a builder, as was my great-grandfather and father—they did both commercial and residential buildings. You have to when you live in a small town. When I was a boy, downtown Greenwood was bustling. It was considered the cotton capital of the world—people came from all over the Delta to buy and sell cotton, so there were fine restaurants and two department stores that sold fur coats. My grandmother, two great-

NOT WORTH IT
William J. Jones is keeping his company out of China. It's the only sure way, he says, to keep China out of his technology.

AMERICA'S MOST INNOVATIVE INDUSTRIES ARE BEING ROBBED EVERY DAY ON THE FLOORS OF CHINESE FACTORIES

HERE'S HOW TO MAKE IT STOP

WILLIAM J. JONES HAS MONEY WORRIES. Of course, all CEOs worry about money, and as chairman of Cummins-Allison, a business that's been in his family for three generations, Jones frets about keeping his customers, paying his 1,000 employees, and financing his company's plans to keep growing. But Jones also worries about money itself, the physical stuff you hold in your wallet or let jingle in your pocket. He worries about how to tell the real stuff from a profusion of fakes, and he wonders whether his customers are using the best ways to check and count the money they collect. He worries that the United States isn't doing enough to ensure that the money that runs our

BY TED C. FISHMAN

PHOTOGRAPH BY DOUG FOGELSON

economy is secure from the machinations of rogue foreign governments and crime rings that work every day to undermine the integrity of the dollar with counterfeits. Cummins-Allison is America's only domestic producer of advanced currency processing machines. These are the machines deployed by banks, casinos, big retailers, and the U.S. government to count and verify currency. Jones believes, with reason, that his company makes the most advanced currency processing machinery in the world, and he sees his primary job as making certain that Cummins-Allison has the culture of innovation to keep its lead.

And therein lies Jones's biggest money worry of all. Every day the company sees evidence that its competitors around the world will go to nearly any length to copy or to finagle a transfer (that is, a theft) of its core technologies. "Cummins survives," says Jones, a lean, scholarly man of 49, "by protecting our intellectual property." Jones knows he's not alone in his worries; his peers in every manufacturing sector feel the same pressure. Jones fears that America's weak efforts in taking on the world's intellectual property pirates will, over time, gut the American economy.

Jones wasn't able to make it the first time we were to meet. That was in Beverly Hills late last year at Senator Tom Coburn's hearings on China's intellectual property practices. I was invited because of the arguments I made regarding the IP issue in my book China, Inc. Coburn was interested in hearing what I had learned since the book was published last year. I went to Beverly Hills to say that the problem is one of the most serious challenges to American competitiveness and is growing worse.

THE WORLD OF NO-COST COMPETITORS

Beverly Hills had the honor of hosting the hearings because to date the entertainment industry has been the most outspoken critic of China's policies. Dan Glickman, CEO of the Motion Picture Association of America, reported to the committee that for all its success around the world, America's entertainment industry makes almost no money in China. He noted that nearly any movie available in U.S. theaters and video rental shops is for sale on pirated DVDs in China. Glickman and other witnesses offered a sobering picture. Much of American industry has seen its trademarked, patented, copyrighted, and otherwise proprietary products get copied in China. Globally, the trade in pirated and counterfeit goods rakes in more than $500 billion annually. Chinese factories are responsible for as much as 70 percent of the world production of bogus goods.

Word was that William Jones had some chilling tales. Candor in this area is unusual; public silence is the preferred stance of most companies that have problems preserving the integrity of their intellectual property. In preparing for the Beverly Hills hearing, I talked with an executive at the Society of the Plastics Industry, a trade organization whose members tend to be smaller, owner-run firms. This executive told me that one of the group's members was recently negotiating in China with a potential partner. The Chinese partner simply refused to offer any assurances that the American company's proprietary goods and methods would be safe. When I asked for the name of the aggrieved American company, I was told it would be too dangerous to the company to have its name mentioned at the hearings. The perception is that complaining loudly about anything that pertains to the Chinese government will lead to penalties, overt or otherwise, that will place companies at a disadvantage in present or future dealings with China. Jones was willing to be a lone voice because he had concluded Cummins-Allison was better served by staying out of the Chinese market. There is a price to his advocacy, however: displeasure among the significant number of American executives who believe public criticism of China hurts American business interests broadly and helps more accommodating foreign competitors gain favor with Chinese officials.

Jones would have been at the Beverly Hills affair, except that he was stuck in Texas at a hearing for a suit Cummins had brought against an alleged Japanese infringer. (The Japanese company settled for $20 million.) His absence in Beverly Hills left the spotlight on the entertainment industry. Its concerns are legitimate and merit action, but the harm it suffers is but a small part of the damage being done to the American economy. The true harm comes not from Chinese consumers buying cheap entertainment but from Chinese companies acquiring world-class technology at little or no cost and then, once enriched, going head-to-head with foreign competitors that remain saddled with paying the legitimate cost of technology. China's telecommunications giant, for example, Huawei Technologies, grew into a multibillion-dollar competitor by stealing the technology of advanced rivals, which stood by outraged and helpless. Huawei has never admitted anything, but when it reached a certain size it began settling with those rivals—it settled with Cisco Systems when it decided to open shop in the U.S. American telecoms compete with Huawei all over the world today.

CHINA'S TELECOM GIANT, HUAWEI TECHNOLOGIES, GREW INTO A MULTIBILLION-DOLLAR COMPETITOR BY STEALING TECHNOLOGY AS ITS RIVALS STOOD BY OUTRAGED AND HELPLESS.

IP theft also serves to throw up a trade barrier. How many companies avoid the Chinese market because they fear they could lose their most valuable assets, their intellectual property? That fear prevents American businesses from wading into the world's fastest growing economy with valuable products they would otherwise be enthusiastic about selling.

I had been asserting these arguments around the country, based on what I had witnessed inside Chinese factories and been told, in confidence, while meeting with business groups all over the world. But Jones was willing to put meat on the argument. So, if he couldn't make the hearing, I thought I could at least meet him at his company headquarters in Mount Prospect, Illinois. I was greeted in the company's conference room on a bright, warm winter day. Cummins is growing, adding buildings and employees at a rapid pace to serve its growing base of bank and casino customers. Its new quarters in a business park are still sparely decorated,

though the company proudly displays framed notes from U.S. and foreign dignitaries thanking Cummins for its help in defending the integrity of money. The Jones family began manufacturing in a patriotic gesture. Franklin Roosevelt personally beseeched William Jones's grandfather, then the owner of one of the first businesses to provide automobile financing, to enter manufacturing in aid to the U.S. war effort against the Axis powers, and framed souvenirs and testimonials to the family's patriotism are spread throughout the office. The room we met in was full of them. Jones entered with a folder containing the testimony he would have given in Beverly Hills.

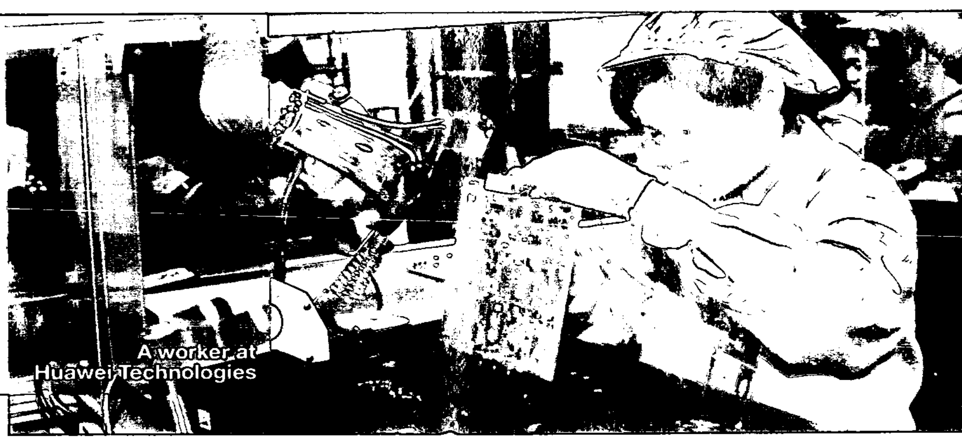
THEFT AS A MATTER OF INDUSTRIAL POLICY

"I am not mad at China," Jones began, "I'm mad at our own government for making bad trade agreements." The essence of Jones's complaint is that when the U.S. government works to pry open markets around the world, as it did by advocating that China be granted membership in the World Trade Organization (it became a member in late 2001), intellectual property is one of the areas where negotiations tend to bog down. He's not wrong. The often elaborate apparatuses built into the agreements have proved cumbersome and weak in practice.

Jones offered a disturbing story about how China's national industrial policy facilitates forced technology transfer to Chinese industries. One new mechanism is the so-called CCC safety certification. Every electronic component or piece of equipment to be sold in China must be submitted to the Chinese government body overseeing the CCC certification. The process requires the foreign manufacturer to give Chinese officials full access to engineering drawings and schematics and to provide a complete finished product for evaluation. In addition, the applicant companies must pay for Chinese officials to visit and inspect their factories outside of China.

Not long ago, Jones learned that China's banks would be shopping for 10,000 currency machines. The Cummins machine that met the Chinese specs sells for about $1,000, and Jones felt obliged to explore. When he learned the details of CCC certification, he walked away. He felt certain that the Chinese government itself would have been involved in the reverse engineering of Cummins-Allison's technology for the benefit of Chinese companies.

Jones says one reason he can hold the line is that Cummins-Allison is privately held and has the luxury to think long-term. He believes that the leaders of public companies, who are compensated based on their results within short windows of time, are willing to trade technology to China if they can achieve a short-term gain from it. One of the most confident speculations in my book was that the largest automakers in China, which were already engaged in partnerships with leading global car companies, would soon offer their own lines of world-class cars that borrowed liberally from their more advanced partners. It was not hard to anticipate, and in April 2006 Shanghai Automotive Industry Corp., or SAIC, which is a majority partner in joint ventures with both General Motors and Volkswagen, announced that it would soon build cars under its own nameplate. There is no word yet on how seriously the new SAIC venture takes its responsibilities as a technology licensee, but I've yet to talk to a person in either Chinese or American industry who doesn't assume that the government-run Chinese company had its eyes on a comprehensive transfer of technology from the beginning. Its partners knew as much, and like many top world companies they saw little alternative but to go along, because participation in the Chinese market often demands such technology transfer as a condition to access.



A worker at Huawei Technologies

RICKY WONG/KRT

I wanted to test with Jones an argument I had been making about the value of pirated technology on the shop floor. I'd been saying that in some industries IP theft seemed to be a crucial part of China's comprehensive low-cost advantage, more significant even than cheap labor. I've heard American manufacturers marvel, bitterly, that Chinese manufacturers sometimes deliver finished products for less than American companies pay just for parts. "This, too, is a function of China's no-cost technology environment," Jones said. "At every stage of the supply chain you have companies that do not have the technology costs American firms have. Chinese companies run counterfeit software, reverse-engineered machines, and other proprietary processes they need not pay for. So by the time a Chinese company assembles a product from Chinese parts, there is a big savings that has accrued all along the way. We have to pay for parts that are made in places that pay a lot for their technology, so naturally we pay more."

When the harm stemming from China's intellectual property regime is calculated, the number is tallied in two ways. One, like the $500 billion figure cited above, is from the estimated gross sales of counterfeit and pirated goods. Another approach is to add up the sales that legitimate sellers would have racked up had they sold a like amount of goods at the prices they normally command. Allowing that copied goods undercut their legitimate competition by between 20 and 99 percent, the number gets huge very fast. Yet even that method doesn't begin to measure the cost to companies that dare not introduce their products to China. That price is harder to add on, since it is impossible to tally the value of plans not made. It is not hard, however, to understand that when American companies must pay full dollar for technology that Chinese companies can get for little or nothing, that dynamic can contribute to the weakening, or near disappearance, of whole American industries.

I was asked in Beverly Hills what would improve if the amount of IP theft in China began to diminish. I pointed to three benefits. First, IP protection would chip away at China's low-cost manufacturing advantage. Second, it would create a large market for America's high-value technology and entertainment products. Third, it could also work to convince the Chinese to revise their currency policies, which today economists widely believe keep the Chinese yuan below its pre-

sumptive market value against the dollar. If China were to find that it had to pay to import technology it now simply takes, it might also have incentive to increase the value of its money and make the world's capital goods more affordable to Chinese buyers.

How should the United States go about enforcing a fairer system? William Jones believes stronger trade agreements and a willingness to enforce them is a crucial start. On that score, there have been some promising declarations from the Chinese government in response to recent U.S. pressure. Last spring, China prepared for an April visit to the United States by its president, Hu Jintao, with measures meant to warm the diplomatic atmosphere. Among those were announcements of stepped-up enforcement against pirates and counterfeiters. So yes, China will probably launch very public campaigns against knockoff polo shirts and handbags. But there is no sign that its more sophisticated policies designed to facilitate technology transfer, such as the CCC regulations, are up for change.

The problem is this: China's extremely loose intellectual property regime has been a key element in the country's growth. From the perspective of a national leadership looking to increase the wealth, health, happiness, and global competitiveness of 1.3 billion mostly poor people, co-opting intellectual property looks like a nice fast track out of the Third World. It's not surprising—in fact, it's entirely defensible, I've heard people in China say—that the Chinese would make this choice.

So change in China will depend significantly on the attitudes and practices here at home. American businesses will have to insist that the Chinese goods they buy emanate from factories that are legitimate users of technology. That won't be a simple thing. As with many of the grumblings Americans offer about China, we are party to the very dynamic that bedevils us.

China's ability to produce at low prices gives it strong allies in the U.S. among businesses and consumers. This is no secret. The Chinese know that our official expressions of unhappiness are rebutted by our willingness to trade on their terms. We buy $200 billion more in goods annually from China than we sell to the country because China gives us ever lower prices. China's participation in the U.S. market is not an invasion; it is by invitation. When orders come from powerful American buyers, they are usually accompanied by strong demands to keep prices low.

The question of how those prices are achieved is rarely asked. Never does a powerful American customer insist that costs not be cut by means of technology piracy. Instead, with a wink and a nudge, American buyers insist that Chinese producers cut costs any way they can. Where, one might ask, do our vast volume purchasers, including the big-box stores at the edge of town and all of us who go there to shop and save, think these savings will come from? When the pressure on suppliers is strong enough, respect for intellectual property isn't much more than a nicety.

THE CREATION OF A COMPLIANCE PROGRAM CAN ONLY COME FROM POLITICAL PRESSURE HERE. BUT IT WON'T COME FROM CONSUMERS. BUSINESS WILL HAVE TO LEAD.

NO ONE SAID IT WAS GOING TO BE EASY

A new regime that certified imported goods as "IP Compliant," and restricted goods that were not compliant, would have dramatic effects. Chinese producers would have economic incentives to comply with their country's legal commitments and to international norms. American companies that insisted on compliance from their suppliers would not be placed at a disadvantage relative to competitors that made no such demands.

And some consumers would holler. Would it cost money to protect American intellectual property abroad? Probably so. The rise of China's low-cost manufacturing machine has meant real savings for American consumers. Currently, China's low prices, and the prices it forces competitor nations to produce at, save each American, on average, around $600 a year.

Analogous compliance regimes exist already. They work. American companies in the toy and garment industries require certification that the factories do not employ children as workers, and executives at the Gap say that the company's efforts to make sure its foreign factories meet international workplace standards not only are manageable but actually help both the company's internal morale and its image in the marketplace. America's biggest home improvement companies work with lumber suppliers to ensure that the wood they import does not come from protected rain forests. And, of course, companies already routinely certify their suppliers on cost, quality, and delivery.

A compliance regime created in America can also create a culture of compliance in China. One of every eight dollars in the Chinese economy cycles through China-U.S. trade. If the Chinese companies that do business with Americans find they must improve their practices, they will likely exert political pressure on their governors so that their domestic competitors are forced to play by the same rules. The change in China could be swift and wide reaching.

The creation of a compliance regime can only come from political pressure here. But it won't come from the usual source, which is consumers. Consumers are by and large contented, as they should be. That means political pressure on the subject of China will have to come from importers. They should be keen to get started – including the big-box importers, which can certainly use a dose of good news. They should be enthusiastic about leading an effort that helps keep American companies competitive.

American economic policy, unlike the policies of nearly every other industrialized country, tends to put the interests of consumers first. Experiences like William Jones's argue for a reevaluation of our approach. It's time to look at the strength we get from making sure our businesses can compete, even if it means higher prices in the near term for American buyers. American industry can do for itself what government has failed to do. It can create an economic reason for China to protect intellectual property, the knowledge economy, and America's great, innovative industries.

Ted C. Fishman's book China, Inc.: How the Rise of the Next Superpower Challenges America and the World *has been printed in 24 languages. A revised edition is available in paperback.*

the cost structures of the leading network carriers and the low cost carriers converge, the airlines that have done the work will compete vigorously, continuing to cut costs just as we will at United, innovate and serve your business and your personal travel needs better.

In my view, and in the view of United Airlines, it's time to treat the airline industry like any other competitive business without special rules and regulations. It's time to complete the deregulation process that began in 1978. At the end of the day, airlines are in fact just like any other business. They must face new market realities and they have to do the work that needs to be done to put our financial houses in order. At United, we're going to continue to do that work, focusing on our customers, those of you here in the room today, and earning the right to serve you, your businesses and your families here in Los Angeles. Thanks very much and I'd be delighted now to take some questions.

Driving Success in the Digital Age

TECHNOLOGY AND GLOBALIZATION

Address by RICHARD D. PARSONS, *Chief Executive Officer, Time Warner Inc.*
Delivered at Town Hall Los Angeles on December 6, 2005

First of all Tony, I want to thank you for that overly generous introduction. I wonder if I could get your notes – there are some people I'd like to send them to. Good afternoon ladies and gentlemen. Can you hear me in the back? I always like to ask that. Am I coming through? It's a pleasure to be here with you this afternoon. The folks who run this organization are very thoughtful and they give you a long lead time. So we set this up a long time ago and when I got to the table I had to confess I didn't remember why I agreed to do this. I just know that my immediate folks told me that Town Hall Los Angeles was one of the more important forums in the country to come and speak to so I'm pleased to be here. It's not like we came out all this way with no connection to this community. We are, as several of you have pointed out to me in the course of the day, we are big employers in this town. We have Warner Bros., we have New Line, we have HBO West Coast operations and so we feel like a part of your community. We're about to be a bigger part of your community because when we complete the Adelphia transaction whereby we're going to pick up Adelphia cable and Comcast cable in this market, I think we'll be in like 98 percent coverage in all of L.A. in terms of your cable provider, which we're wildly enthusiastic about. We think this is a terrific business. We think this is a terrific market and we couldn't be happier to be here today before we actually close on all that because I find when I walk around town in New York where we're the cable providers people come up to me all the time and say, man, I couldn't get my cable guy to come by. So nobody can do that here yet so don't expect me back.

I just want to tell you how enthusiastic we are about the opportunity. I thought what I do, I understand that this is an interactive kind of forum that we have and that my job is to do a little speech and then to throw it open to your questions. And since people are always more interested in what's on their mind than what is on my mind, they like to get to the Q & A part as quickly as they can. So I'm going to share with you just some thoughts on how the digital age is shaping the media and entertainment and communications industries and to some extent how that's impacting on our company. But this is - I'm aware of the fact that while L.A. is not exactly, you know, a company town, the media, entertainment, communications industries are a huge part of the employment base and the economic activity in this marketplace. So I thought that might be of some interest to you as well. I'll try to get through it reasonably quickly so we can then get to your questions and I expect that may turn out to be as entertaining for me as hopefully it will be for you.

Before we talk about how digital technologies are affecting the media and entertainment and communications space I thought it might be helpful - particularly in the context of all of the discussion today about whether big is better or small is better and who should disaggregate and who should – let's take a step back and talk about broader gauge industrial trends, trends that affect industries across the board, not just here in America but across the globe. Because I think it's instructive and will help us think about where we go from here. I'm thinking now about consolidation. If you go back - and I'll step outside of our industry for a minute and talk about other industries – the automotive industry, the airline industry, financial services, banking industry, pharmaceutical industry. And you look at the trend line over the last 100 years of business in America, what you see, one consistent thing you see is consolidation. I don't know how many automotive companies and airline companies we've had in this country over the course of time - Warren Buffet told me once over 2,000 - and now it's boiled down to a small handful. While it hasn't

in August. The effectiveness of our work and United's potential upside are well understood by four of the most significant financial institutions in the world. They have each proposed, and today compete, for exit financing for the company for up to $3 billion.

We've come this far at the company because we base our decisions on the facts and on you in this room, on our customers and what are our customers value and what our customers are willing to pay for. We knew that our domestic network and our global connectivity were highly valued in the marketplace by our hubs, hub cities, our business partners and our customers and today we serve more cities and fly more routes than we did in 2002. We've maintained our L.A. hub and the service we offer here is serviced by some 4,000 employees, some of whom are with us here in the room today. Connecting to the important economic growth in Asia and to global commerce worldwide is critical to you in this room, critical to Los Angeles, critical to your businesses. We've increased our service to Asia, adding important new destinations and with our Star Alliance partners we can fly you conveniently to almost any place across the globe. Business travelers have long been at the heart of the value proposition of United and we'll continue to serve them. For example, we've introduced our P.S. – Premium Service – transcontinental service to L.A. from New York. United is the only carrier with lie-flat first class seats between this city and the East Coast.

That doesn't mean, however, that we cannot continue to compete selectively on point-to-point flights for leisure travel customers. When we introduced Ted, United's low-fare leisure brand, industry pundits, of whom there are many, immediately claimed it would be a failure. They were wrong. Ted has been well received by our customers and by our employees and has been a financial success for the company. Ted has grown to 56 aircraft this year and will account for about 20 percent of the company's domestic capacity. Here in L.A., we've added new Ted service from LAX to Phoenix and to San Francisco from Ontario and we've proposed new service to Cancun, Mexico. Network carriers in this country must compete effectively on many different levels to be successful in the changing industry environment that we're all familiar with. United prepares now to exit from Chapter 11 in the coming months and we've proven that our company is not only willing but able to confront the problems and deal with the facts as we find them. We're now in a much stronger position to seize growth opportunities as we move forward. We have done the work that some of our peers today just began. So now what?

No matter how well United, in my view, or any U.S. carrier transforms its business, none of us will be as strong as we should be. Much less in a position to compete in the emerging global aviation business if there's no change in the regulatory environment in which we compete. As I said earlier, since deregulation in 1978, U.S. government policy has encouraged the maximum number of domestic carriers and discouraged meaningful consolidation, preventing the emergence of strong, national carriers. The government taxes airline tickets at 26 percent, comparable to taxes levied on alcohol and on cigarettes. For an industry that provides the linkages necessary for economic growth, this is simply bad policy. Bilateral restrictions and a limit on foreign investment further inhibit international growth. While U.S. carriers struggle for survival here at home, it's important to note that many of our global competitors have in fact returned to profitability. They're consolidating today across national boundaries, buying new aircraft and investing in vastly improved products. For the first time in the history of aviation, U.S. carriers are no longer the strongest carriers in the world. In the Asia/Pacific region, Qantas, Singapore Airlines and Cathay are posting record profits. Singapore now owns 49 percent of Virgin Atlantic and has launched some of the longest nonstop routes in the world – Singapore to Los Angeles, Singapore to New York.

In Europe, Air France has acquired KLM and is now the world's largest carrier measured by revenue. Lufthansa recently finalized the purchase of Swiss International Airlines and is the second largest carrier in the world measured by revenue. Strong carriers are also emerging in Latin America and the Middle East. With the support of their governments, regulatory policies that encourage growth, major airlines around the world are merging across their borders to create super carriers. They're positioning themselves to compete in a truly global market and they'll have the financial strength to be what we perceive as super carriers. Without a coherent U.S. aviation policy that reverses the bias against airline scope, scale and size and removes the barriers that prevent us from constructive consolidation in this industry, U.S. carriers will be unable to compete on a global scale and we risk being competitively marginalized. In our view, the U.S. must encourage the development of larger international carriers with strong balance sheets and capital to invest in the market - network carriers that can compete with the likes of Air France/KLM or Cathay Pacific or Air China. Contrary to popular belief, or occasionally as it's reported, consolidation of the U.S. airline industry will not disadvantage the customer, the consumer. We all know that price transparency is here to stay. Competition will continue to put downward pressure on domestic fares and as

gotten quite to that place in the banking world yet, when I was in the banking business we had I think 18,000 separate banks, different banks servicing the country. If you look at Canada they have six or seven. We're not going to get down to six or seven, we're literally reduced by 50 percent, probably more, in the ten years I've been out of *the business and that trend is going to continue. Same for pharmaceutical, same across the industrial landscape. Why? There are a lot of reasons but I would submit two of the major factors that are behind the trends toward consolidation are globalization of the marketplace and technology. Both have driven globalization and provide opportunities on their own.*

Those two phenomena have resulted in businesses having to sort of scale up, first to scale up to meet the opportunities of the marketplace. It's a very different proposition if your market is Los Angeles than if your market is the world. If your market is the world you have to have infrastructure and distribution and all the kinds of resources around the globe which, by definition, imply financial scale, managerial scale, larger businesses. You have to do that to be competitive. Technology now is driving globalization in a way that it hasn't in the past. It has accelerated the rate at which the markets are truly opening up to global competition and so those phenomena, the phenomena of international operations, global operations - global competition fueled by technology that makes communication instantaneous and enables us to get anything anywhere on time and in time - those trends aren't going to change. They're not going to go in reverse. I think those trends are not only going to continue to drive consolidation across the industrial sector, they're going to affect our sector, the media, entertainment and communication sector, as they have over the last 20 years. If you look at a sector in which I come from, what you've seen is small coming together to become larger and larger and larger over time to the point now where you really have four, five, six major media companies that have consolidated 80-plus percent of the media activity in this country. And there are those who have thought things have gotten too big. Things are now too wieldy, they can't be managed, they're not nimble; we have to start going in the other direction. I don't think that people who follow that advice are going to be rewarded over time and in fact my prediction is that in time you're going to see those who have tried to disaggregate, to get nimble, to become more competitive, to re-aggregate. It's never my practice to pick on any of my fellow competitors and partners in the entertainment space but most of you here are probably keen observers of the business scene, and you know that a number of companies have aspired to say we should go in the other direction. It is my prediction that not only will people who try that, fail to be rewarded by that approach, but virtually no sooner will the ink be dry on the papers under which they've now reincorporated as several smaller entities, then each of those entities will start to try and re-aggregate and build themselves back into their former image. And it's because the macro trends that have driven consolidation in business aren't changing and in the case of the media, entertainment and communications industries - I would add a third factor that I think is going to continue to drive this consolidation and I'll call that convergence.

Now, someone thought ahead – that was probably you, John. Let me put our industry, or those industries, into context before I talk about where I think they're going and how I think digital technology is going to affect the shape of the future. Today, if you go back a number of years we used to manufacture things in America. We made cars, we made computers, we made things out of steel, airplanes and stuff and that manufacturing capacity was the base of, not only our domestic economy but what we exported to the world. Today, it might surprise some of you to know that entertainment is our single largest export in the United States. We inform and entertain, tell stories to, and relate the stories of the world to the world and we do it better than any other country in the world. And it is, right now, the backbone of our foreign exchange if you will, having gone past cars, having gone past tobacco, having gone past hard goods and services. So these are not trivial industries and these are not trivial issues in terms of how those industries are going to evolve and whether we stay competitive with the rest of the world going forward. I would submit to you that it is vital to every American's interest that we do stay competitive because this is how, in effect, we are able to sustain the standard of living and the style of life that we have in this country and still have stuff to trade to the rest of the world for the goods and services they send here. So we've talked about globalization. Nowhere has globalization affected an industry like our industry because you can move what we do around electronically in the form of bits and bytes, through the air, through wires, instantaneously. Anything that I'm saying today could be heard in real time in nanoseconds anywhere in the world, had we chosen to broadcast it that way. And the same is true not just for voice but for video and text so anything we do can find its way to any corner of the world instantly now. So we have to think of the whole world as our marketplace. Technology has not only enabled that, it's enabled a number of other things which I'm going to lump under the heading of convergence.

That's a phenomenon or trend that's affecting our business in a way that is not affecting, say, the automotive

industry. Now, I always find the best way to make your point is by example. The point is that once upon a time there was a media industry, think basically television, radio. There was an entertainment industry, think the movie business. A communications industry, think the phone company. Those industries are on a path to converge. Now, convergence isn't going to happen the way that some people thought at the turn of this decade when they thought it was almost going to be like turning on a light. One day we'd all wake up and live in a converged world and everything would be different. Human habit patterns don't change fast enough to allow that but convergence is happening and the example I would give you, and I could give you many, but one that's good is our cable company. Time Warner Cable, when I joined Time Warner in 1995, Time Warner Cable was the second largest cable company in America and basically its business was delivering video programming to end users, to customers, to people's homes. That was its definition. We delivered television programming to people's homes over the cable line. Today, that's still a part of the cable business. When most people think about the cable company they think about a TV business, they deliver television signals. A huge part of our business now, however, is delivering high-speed internet access. I don't know how many of you out here are Time Warner customers, Comcast customers probably have the same, I'm not sure what Adelphia does. Ours is called Road Runner, Comcast is Comcast.net, but we're big broadband providers, we provide internet access at speed in addition to cable television programs and more recently within the last year we've launched the telephone business. Time Warner Cable is now the tenth largest telephone provider in the United States, in one year. We have over a million customers and we'll double that next year and probably double it again the year after that. So we're not just in a video programming business anymore and the delivery of video programming, we're in the high speed internet access business and all of the IT implications and consumer product implications that that has, and we're in the phone business. We're directly in the communications business and we just made a deal with Sprint where we'll be in the wireless business soon so in one business in 10 years - it used to be a single product delivery business – cable TV into your home. It's now competing against the R-box, the major phone companies, competing against all the other internet service providers that provide access to the internet, whether it's wireless or wireline as well as competing now against a whole set of new competitors called the satellite in the television business.

Internally what that implies is that we have to have the flexibility to develop the competence to deal across the board in those industries as well as to have the financial resources to make the investments that enable us to take advantage of the opportunities in those industries. Now technology isn't all one-sided, of course. It presents challenges as well as opportunities. One of the challenges that the digital age has put on us is, for the first time in a long time, virtually everything that we produce in our company can be pirated, can be siphoned off. Perfect copies can be made in multimillion numbers and sold directly. If you go to China or India you'll find our DVDs, which in this marketplace have an average price of $15 a copy. You can find them being sold on blankets on any corner in any major city in China for under a buck and to put that in some sort of scale, current estimates are about a billion DVDs are consumed, purchased, acquired in China annually. About 50 million are legitimate. The other 950 million or 95 percent of that is pirated. India's better but not much; about 60- to 65-percent is pirated. When you think about it, between China and India that's two-thirds of the population. Those markets are - I won't call them lawless because that would be impolitic - but I'll just say they haven't yet adopted the sort of western notion of rule of law. But even in this country the ability to get access either through downloading or pirated copies made of digital product, which means the copies can be made perfectly, can be rendered perfectly and, once you start talking about the internet, can be uploaded and sent to millions of people with the click of a mouse - that's the real challenge for us.

There are other challenges the digital age presents but I like to think, being an optimist, that in the history of the world pirates never win. They have their day but piracy never wins. In the history of the world, it hasn't, because by definition it's not something people invest deeply in; it's unlawful and it is anarchy and the forces of order will overcome. I believe they will again and technology will, as it has been for the content industries, become a real boon. It will give us new ways to access more customers with more product but we still have to overcome that challenge. My saying it, does not make it so. We're working hard on that but we're also working hard on ways in which we can make this new technology work for us. I'll give you an example. We recently announced something we're going to do between Warner Bros. and AOL called In2TV. What that is, you can imagine, we've got somewhere between 14- to 15-thousand hours of television programming in the vaults of Warner Bros. Old TV programming, you know "Dynasty," "The Fugitive," "Mork and Mindy," whatever. Now you say, but who would want to watch that stuff? Well, I guarantee you that in a country of 280 million people somebody somewhere will want to watch it. The challenge has always been how to get that pro-

gramming, in this case, how to get that programming to a very narrow audience. We haven't had the tools or the ability, the distribution means to do it in a cost effective way. Well, enter the internet. We took a lesson from Google. What Google has done is Google has found a way to reach, you may have a specialty product - my favorite is there was an article in the Journal about this - the guy who's got bigshoes.com. It's my favorite because I have big feet. But you can't, how much money can he put into advertising into Newsweek? You can't buy ads in all the newspapers across the country, you certainly can't do television, but you can do the internet for very little money and people who have big feet and an interest in finding big shoes will find you. And so we said, let's take all that 15,000 hours of television programming and make it available on the web, free of charge, so that out of that 280 million people the seven who want to see reruns of "The Fugitive" can find them and then we'll monetize it through an advertising protocol, much the way broadcast television is. Now, is it going to work? I haven't the foggiest idea. But it's that kind of experimentation, that kind of thinking, finding ways to take what we have traditionally made and created and use technology to access, to put it deeper into the markets, to put it in front of more people in different kinds of ways. I think it's not only going to be the salvation of our industry it's going to be the next incredible boom or growth driver for our industry because I think two things, I'll make two predictions – (1) In the fullness of time we will get on top of piracy. That doesn't mean we will drive piracy out of the business. Piracy still, by the way, exists, for example even in the old style cable business I talked about a minute ago. There are probably 65 million cable subscribers, probably another 7 to 9 million unlawful users. In other words, still 15 percent of that product is pirated. I love it when people come up to me knowing that HBO is one of our companies and tell me about how they just paid $100 and got this black box so they can unscramble signals and steal HBO. Smack.

So, piracy is always going to be with us but it will not be the mainstream threat to the business that it is today because we'll figure out and we're working on it now, the digital rights management and encryption technologies that will get us in front of that wave. (2) And I think what will happen is we'll then - because we are technologically enabled, it's like technology opening up the rest of the world as a marketplace for us - technology will open up new ways and new means of accessing consumers with the stuff that we do, which is tell stories and create content that both inform, enlighten, amuse and relieve and entertain people. Just to finish up where I started off - I can't help it because this is one of the questions of the day in my business and for my business specifically. If I were to tell you, O.K., we're all going to go on a journey and we're going to a place of great challenge and great opportunity but I can't tell you what the terrain is like that we're going to be traveling over or what the climate is, if it's hot or cold, or what season it is at this point in time of the year. And your challenge was to go home and pack for it, probably what you'd do is pack a little bit of everything, right? You wouldn't say, well, my guess is about where we're going to go is going to be tropical so I'm only going to take cotton shirts and shorts because you could be wrong. In a very simplistic way that's the way I think about our business. No one really knows where all of these new technologies are going to move our businesses and our industries so rather than just taking shorts and a T-shirt I'd like to take some winter clothes, I'd like to take some seasonal things with me, I'd like to take some hiking boots as well as some formal wear because I'd like to be ready for anything that comes and that's the theory of our company, that's the structure of our company. We have a bit of everything in our company so that we are prepared for whatever comes down the road and not only prepared for whatever comes down the road but I believe by having a place in the content creation side, which is our movie business, and having a place in the delivery side, which is our cable business, and having a place in the online side and the print side, that as a company we can develop a collective intuition about where things are going and not only be reactive but proactive. Help drive the shape of change. Nobody can control it, nobody can really create the future but you certainly can help shape how the future unfolds and be ready for it.

So I like our hand, I like our structure; those are the reasons why but I also like our business. I think right now our sector, the so-called media sector, is out of favor with investors because investors have become terribly short-term oriented which I think is a real threat ultimately to the competitiveness of American business. But I think that pendulum will swing back and people who are well positioned, and well positioned to catch the wave however the wave develops, will be rewarded in time. I think over time those of you who are in the entertainment, media, and communications businesses will be rewarded because I think the opportunities are going to be fabulous for us going forward. I appreciate your attention and I'm now prepared to be battered.

Thank you.

Shoring Up Our Legal Foundations

CORPORATE AMERICA'S STAKE IN CIVIL JUSTICE REFORM

Address by JOHN HOFMEISTER, *President, Shell Oil*

Delivered to Lawyers For Civil Justice 13th Membership Meeting , New York City, New York, December 13, 2005

At the climax of Robert Bolt's play, A Man for All Seasons, Sir Thomas More is tried on a trumped-up charge of treason.

The prosecutor tells the court that he is going to use the law as a "light" to expose More's treachery.

More - a lawyer who was later declared a saint - makes this stirring reply: "The law is not a 'light' for you or any other man to see by; the law is not an instrument of any kind. The law is a causeway — upon which, so long as he keeps to it, a citizen may walk safely."

I like the image that Bolt gives More in this speech.

The dictionary defines "causeway" as "a raised roadway, as across water or marshland."

If we keep to the causeway - whoever we may be - we are safe. We won't find ourselves soaked, drowned or mired in a bog.

At least, that's the way law is supposed to work!

To me, a layman, the majesty of the Common Law is this: It was not imposed from above, by some Caesar or Napoleon, as was usually the case in civil law countries.

Rather, it grew organically, from the grassroots, out of the centuries-long struggle for individual human rights and the principle of self-government.

As we know, this was a struggle that dates back to the year 1215 - to a pleasant English meadow called Runnymede - where the English barons forced King John to sign the Magna Carta.

Prior to that great event, King John liked to boast, "The law is in my mouth."

Magna Carta zipped his lip.

From that time forward, the growth of the Common Law served to curb arbitrary power and to safeguard personal rights.

Thus, the Common Law became the "causeway" of which Thomas More spoke - a legal system that was dependable, impartial and just - built on sound foundations, and built to last.

It was a causeway that people could trust - knowing that, as long as they kept to it, they could walk safely.

We need that kind of legal system.

Without it, ordinary citizens can scarcely go about their day-to-day affairs and feel safe from potential legal pitfalls,

Still less can businesses - especially large, costly and complex businesses - make long-term plans, invest billions of dollars in new enterprises, compete effectively in global markets and create jobs.

I have been a corporate executive for many years, with long experience in international business negotiations.

It was once a source of great pride to me that foreigners, when they were parties to contracts with American firms, would stipulate that any disputes that might arise under these contracts should be resolved under American law.

Sadly, this is no longer the case. I have lived and worked outside of the U.S. for the last ten years. During that time, I have been shocked by the degree to which suspicion and contempt have replaced the trust and respect that foreigners once had for our legal system.

Most of you are lawyers, so I don't need to elaborate on the reasons for this change of attitudes.

Over time, we have seen the causeway that was once the American legal system turned into a casino, dispensing jackpot justice.

We have seen the class action principle turned into a kind of Ponzi scheme - where the payoff lies not in correcting a wrong done to a class of persons or in compensating them, but rather in awarding huge fees to the lawyers who initiate the action.

We have seen forum-shopping on an unprecedented scale, with trial lawyers flocking to so-called "magic jurisdictions" where the judiciary is elected with verdict money, or else where juries are notoriously biased against corporations.

We have seen the widespread introduction of "junk science" in our courtrooms through the testimony of putative "experts."

We have seen legitimate businesses dragged through the courts for actions that were perfectly legal when they were taken. Indeed, in some cases, these actions were mandated by law or regulation. (Asbestos, for example, was mandated by fire codes for years because of its flame-retardant properties.)

We have seen unscrupulous trial lawyers use the threat of crippling lawsuits to extort huge settlements from corporate America.

We have seen manufacturers forced to stop making certain products - including vaccines - because of the soar-

only a few thousand dollars for each expectant mother, versus $35,000 or more for week in a pediatric intensive care unit.

That's the kind of choice on health care policy that we make in this country year after year — and it is morally wrong and economically foolish.

Over the past few years, I've talked with a lot of people in the business community who've told me, "You know, the UAW is right about national health insurance. Too bad it's not politically feasible."

Well, why not?

America is still a democracy and the President and Congress work for us – we the people.

I believe that we've let our policymakers off the hook, not only on health care but on the growing social and economic inequality in our country.

But let's be honest about this: We've let ourselves off the hook, too, haven't we?

We need to change that – right now.

We need to stop listening to those who say we can't have a health care system that works for all of us ... or an economy that works for working people ... or good schools for our children and secure retirements for our elderly.

We need to stop listening to those who shrug off growing social and economic inequality in America by saying, "That's just the way it is."

It's not; it's the way we let it be.

So, let's stop listening to those who, wrapped in their smug complacency, keep telling us what we can't do.

Let's listen instead to our own best instincts that tell us that we can. Thank you very much.

"Gung Ho"

UNITED STATES RELATIONSHIP WITH CHINA

Address by ROB SIMMONS, Member of the United States House of Representatives, Connecticut

Delivered to the China Growth Conference, hosted by Adam Friedman Associates at The Princeton Club, November 2, 2005

My name is Rob Simmons and I'm a Republican member of congress from Eastern Connecticut. Before I get into my remarks on the growth of the US-China relationship, I would just like to mention a couple of personal things that affect my outlook and my view of this developing relationship.

My wife's family, which has lived in Stonington, CT since 1765, has a house up on North Main Street, filled with Chinese Antiques. And sometimes people ask us: "Where did you buy these? Where do they come from?" Well, they came from the China trade, over 150 years ago. Her family was engaged in the China trade out of Stonington, Connecticut. A mutually successful and happy relationship through which both the Chinese and the American traders benefited. That's part of my background, that's part of my history and that in some respects shapes my view of what the future of Chinese trade might be all about.

I should also share with you that I'm a veteran of the Vietnam War. And as a veteran I experienced some of the adverse impacts of China's foreign policy, specifically, the sale of ammunition to Vietnam. Those were not happy times for US-China relations, any more than the Korean War was a happy time for our relations. But I think that from my perspective those times are over. I think that's a positive development. That does not mean that there aren't certain issues that continue to affect our relationship, but I would argue that the trend is positive. The trend is in the right direction. And we should be excited to participate in that trend.

I should also tell you that for three years my wife and I lived in Taiwan. We lived in Taichung and also in Taipei, which is where I learned to speak some Mandarin Chinese and where my daughter Jane was born. We had three tremendous years there and I served in the embassy before the embassy closed and moved to Beijing.

Two years ago my wife and I traveled to the mainland on a trip sponsored by UPS and we traveled to Hubei province where we worked with UPS to build a school. It was a marvelous experience. It was my first experience in going to Mainland China, and it gave me the opportunity to see with my own eyes the new China, the modern China. The China where free enterprise and opportunities for individual development are flourishing.

So these different personal experiences shape my view of the future of the US-China relationship.

It is important when we look at the US-China relationship we don't ignore the fact that there are some problems. Politically for example we've made tremendous progress in our relationships with China. China has become a leader in dealing with issues relative to North Korea. China has convened the 'six party talks' to deal with the issues of North Korea and in particular North Korea's proliferation of nuclear weapons. I consider that to be a positive development on their part.

At the same time there are issues relative to China's relationship with Pakistan, and nuclear proliferation in that

the private sector.

Let me add that cost-shifting isn't the answer. There's been more cost-shifting in the U.S. than other industrialized nations, yet our costs are rising far faster.

Some of you may have noticed that the UAW and GM have been talking about health care for the past few months.

For reasons I'm sure you can all appreciate, I'm not going to talk about the specifics of our discussions.

But I do want to make it clear that the UAW understands that health care costs are a problem for GM ... and for every other American employer.

That's one of the reasons the UAW has been pushing for national health insurance since President Truman proposed it in 1948.

But some journalists and pundits make it seem like health care costs are GM's only problem.

We don't think it's that simple. Health care costs alone – for that matter, total labor costs – don't explain GM's U.S. market share falling from 41 percent in 1985 to just over 25 percent.

Decisions about products, marketing and advertising strategies, and many other factors – including bad U.S. trade policy — have something to do with that, too.

The conventional wisdom is that the UAW hasn't done anything to help GM take costs out of the system, that we have our heads in the sand on this issue.

Well, the conventional wisdom is just plain wrong.

In fact, the UAW has worked closely with GM to rein in health care costs – and health care costs for GM have increased at a rate below the national average.

Let me quickly highlight some of the things the UAW and GM have done on health care:

* In 2003, we increased co-pays on prescription drugs, required mail order for maintenance drugs; pushed for broader usage of generic drugs – saving millions every year.

* We transformed traditional care into a "broad PPO" – the Traditional Care Network – reducing costs by 15 percent.

* We narrowed PPO networks to drive customers to more cost-efficient and higher performing providers — another cost saving

* We took medical costs out of the Consumer Price Index for COLA calculations – another cost saving.

* We agreed to divert two cents of COLA each quarter of the four-year agreement to help offset health care cost increase.

* Our Community Health Care Initiatives in Indiana and Ohio saved GM some $10 million in 2004 (according to GM).

* The electronic prescription initiative launched in southeast Michigan earlier this year by GM, Ford, DaimlerChrysler, and the UAW will save millions, while reducing errors and improving quality care. We need to roll this out nationally as quickly as possible.

That all adds up to significant savings in health care. And, as UAW Vice President Dick Shoemaker and I said in April and many times since, we are willing to continue working with GM, within the framework of our National Agreement, to reduce costs in health care and other areas.

I'm optimistic that we can find ways to do that. But I also know that we can't solve the real problem. The real health care problem simply cannot be solved by one union and one company, even one as big as General Motors.

"This is a time of crisis and a time of decision, and ... we cannot afford to postpone facing up to the real challenge of this crisis. The people of America have a decision to make. We believe the choice is clear.

"We can continue to accept the status quo and spend increasing billions each year to meet the skyrocketing cost of health care services; we can go on subsidizing the built-in waste and inefficiency of a system that will continue to fail to meet our essential health care needs; or we can act in the knowledge that we must develop new ideas and new concepts and, through new social invention, create an appropriate system of national health insurance that provide an adequate and workable financial mechanism to make high quality comprehensive health care available to every American.

"I do not propose that we borrow a national health insurance from any other nation. No nation has a system that will meet the peculiar needs of America.

"[But] I am confident that we have in America the ingenuity and the social inventiveness that is needed to create a system of national health insurance that will be uniquely American."

Those aren't my words. They're from a speech that Walter Reuther gave to the American Public Health Association in 1968.

The problem was clear 37 years ago; so was the solution.

And yet America is still the only advanced industrialized nation without national health care.

We have the best doctors, nurses, medical technicians and technology in the world.

Still, millions of Americans don't get the health care they need when they need it.

For example, we could lower the infant mortality rate in this country dramatically simply by providing pregnant women adequate nutrition and prenatal care. It would cost

country and Iran that we must be concerned about. So in some respects there are positives developments in that political role. In other respects there are areas of concern.

China's economy has grown to an extraordinary level. Ever since Deng Xiao Ping initiated the reforms of 1978/79, we have seen a tremendous growth of free enterprise in that country and trade which is mutually beneficial for the Chinese people and for our own.

In Connecticut GE is a company doing great business in China. Connecticut-based United Technologies, with its Carrier division for air conditioning has had tremendous growth and trade with China, and its Otis Elevator division has been doing business in that part of the world. These are all very positive economic developments for our relationship with China.

But there are also areas of difficulty. The recent effort to buy Unocal by the China National Offshore Oil-Corporation (CNOOC) was an issue of concern for the U.S. government and for the Congress. The idea that substantial dollars would be applied to this transaction that were interest free and others that were essential government loans for the 8th largest energy company here in the United States resulted in congressional hearings and some serious questions raised about that acquisition. And eventually the offer was withdrawn.

But the question that was raised was: what are the national security implications of allowing a company that is essentially government owned and government controlled from engaging in an acquisition of an US firm listed on the New York stock exchange? And what policy attitudes does the United States have to take in transactions of that sort? Is there sufficient transparency for these transactions to take place and what role should the congress and the commerce department, the trade representative, play in insuring that these types of transactions are mutually beneficial for both countries?

There has been a lot of discussion on the Chinese military build-up. For example, the production of submarines is running at about 8 or 9 a year and by the year 2025 the Chinese navy will exceed the number of ships of the US navy. By 2015 the Chinese will have twice as many submarines as the US and 6 of those will be nuclear submarines, the rest diesels. What are the implications for the United States, for Japan, for South Korea and others as the Chinese navy grows so substantially, as their capability to launch and deploy missiles continues to grow? Is this something where the United States needs to be concerned or is this something that simply is a reflection of China's growing power in the region, something that is manageable and that we can deal with?

I mentioned that I lived in Taiwan for 3 years; how will we resolve the Taiwan problem? Again, it's essentially a political issue but it is a political issue that is going to affect our economical relationships. At this point and time it's my understanding that several hundreds of thousands of Taiwanese are living and investing in China. The economic relationships between those two entities are growing and this is a very positive development.

But what are the implications of the anti-succession law? What does that really mean when the Chinese legislature passes a law that essentially says succession by Taiwan can be considered an act of war? What were the implications a few years ago when prior to the first free presidential elections in Taiwan the Chinese fired a few missiles out over the South China Sea? What were the implications of those types of activities? In that particular case I would suggest that it didn't work out very well because the presidential candidate who was supporting a 'Taiwan first policy', Lee Deng-hui, was actually successful in that election. So, if you are a political analyst you might say that was probably not a good move. But how do we move forward and develop our economic relationships if in fact there are tensions regarding Taiwan? How are we going to resolve that in the future to the mutual benefit of all parties? This too is part of the environment we have to deal with.

How do we deal with counterfeit products and intellectual property rights? In my district of Connecticut we have a company called the Faria Corporation that for many years has made gauges. It employs about 400 people and it has been very successful selling in about 25 markets around the world. But a year or so ago we discovered that counterfeited Faria gauges were being manufactured in China and were being sold in competition with the Faria company. This is a serious issue. I believe that the Chinese government is making an effort to crack down on this because it is a point of contention in US-China economic relationships.

But is the central government sufficiently positioned to stop this all together? And what role should the U.S. Commerce Department play or our trade representatives play in trying to deal with the issue of counterfeits? The problem that this particular company, the Faria company, faces is that they have a lifetime guarantee for their gauges. So if a counterfeit gauge is sold in a foreign market in central or South America and it is defective, it is returned to Faria in Connecticut and replaced with a new gauge. And so over time there is a tremendous economic burden in trying to deal with the issue of these counterfeits. And certainly politically that has an adverse effect on our relationships.

Finally, there is the China currency issues and trans-

parency. The Chinese Yuan or the RMB has been pegged to the US dollar in a fashion that creates inequities. And this is something that the federal government and the Congress have been focusing on very substantially over the last several years. And recently there was a dramatic breakthrough that the Treasury Secretary, John Snow, referred to as an extremely positive development where China agreed to remove the peg and place the Yuan in a floating basket of currencies in an effort to address that issue. It remains to be seen how that is going to work out but certainly those of you who are involved in the financial markets and those of you who are involved in banking and investment have to be concerned about the pegging of the currency and whether this new proposal is going to resolve the issue.

On the issue of transparency, the difficulty of knowing exactly what the economic history, what the economic record, of companies may be in China because of different ways of looking at transparency is of concern. All of these are things are on my plate as a member of Congress. And although the presentation may sound negative in this regard, I think that what I'm trying to point out in a pragmatic and realistic way is that there are certain barriers and certain problems that must be addressed. But the overall relationship, as I see it, is moving in a positive direction, in a progressive direction, in a direction that we all want to see and that we can all benefit from.

And what I'd like to do at this point is conclude with an anecdote.

My license plate on my car in Connecticut has two words on it: "gung ho'. Now as Americans, friends of mine who are veterans see that license plate and they say: "boy, that's really great." "Gung ho" means enthusiastic and progressive and forward leaning and exciting. And that, of course, is true. Especially during World War Two and after we saw the John Wayne movie titled "Gung Ho" you have that sense it's all about the US Marines and positive outlook and enthusiasm.

But there's an interesting history for the words "gung ho". It comes from the Boxer Rebellion in 1899 and 1900 in China. The Boxers who opposed the unequal treaties and the foreign influences rose up to expel the foreigners from China and from Beijing. And they laid siege to the diplomatic legations. And the United States navy, the Marine Corps and others went in to relieve the legations. And as the Marines landed in Beijing and began to deploy and confronted the Boxers, they engaged in a highly disciplined close order drill that had not been seen before in China. The response was: "Look at those American soldiers, they are all working together." "Gung he", working together. So the phrase "gung he" to "work together" became the word "gung ho" in our vocabulary.

I'm enthusiastic about the relationship between China and the United States. I'm enthusiastic that our economic relations are going to improve mutually for all. I'm enthusiastic that politically and militarily we can deal with whatever problems we have. And I'm enthusiastic about it because I think we are dedicated to the idea of working together. And as long as we work together, as long as we are 'gung ho' we will be successful.

Aboriginal way and that the child must live, belong and grow within the environment of human relationships rooted in their extended families, their clan and community.

In another community, a small grant to create a Community Care Committee resulted in a committee of six women working in conjunction with organizations to provide parenting workshops, advisory and problem-solving services. Thanks to the efforts of the care committee, in one case, children whose parents were killed or severely injured in a traffic accident will not have to go into a foster home but will stay permanently with family members.

As one woman recounted, community members have learned that "we do have the capacity within the community" to be involved in decisions made by government agencies. "The training has removed fear, educated our women and empowered our people to become involved rather than sit back in apathy," she said.

In the North, women are effecting systemic change to colleges and universities to make relevant culturally-sensitive changes to institutions. The Skidegate Band Council on Haida Gwaii received a grant for the Early Childhood Learning with A Social Context program. Northwest Community College took up the challenge and provided another grant to provide community early childhood education that will provide cohesion to the services available to children and parents within the village.

In Prince George, Carrier Sekani Family Services, funded and supported through The Victoria Foundation, The Law Foundation and the University of Northern British Columbia, is offering family dispute resolution and mediation training. Twenty-two individuals, the majority of them women from different communities in the territory, have enrolled and I am told the project "has ignited interest in community-based mediation practices and justice in general."

Building programs such as these, with the culture and tradition of the communities woven into family service works for everyone in society. The Metis Child and Family Services reports that culturally-sensitive case plans, which support children to remain with the families, are efficient. An economic cost-benefit analysis of the Families are Forever program, in Kamloops, demonstrates a reduction of overall service costs and complements the other obvious benefits to children.

There are many other stories to tell – stories of building capacity, of systemic change and of communities returning to intelligent long-term cost-saving alternatives that are culturally sensitive and effective.

I share these few stories, with permission, to demonstrate that there is momentum in Aboriginal communities to develop their ability to respond to their communities' own needs. Momentum needs support and that comes from understanding and respect.

I offer my best wishes to all of you. I hope the tradition of this camp carries on for many years to come. It is also my wish that the concept of this camp spreads across BC and Canada and into other societies. I thank Dr. Samuel Sam, O.C. and Greg Sam, the organizers of this camp, all of you, and others for respectfully allowing me to share these words with you. Thank you.

Present At The Creation

INVENTING BUSINESS ETHICS

Address by RONALD BERENBEIM, Principal Researcher and Director of The Conference Board's Working Group on Global Business Ethics Principles

Opening Remarks Keasbey Memorial Foundation 50th Anniversary, Panel on Business Ethics and Globalization, Philadelphia, Pennsylvania, September 25, 2005

Let me begin on a personal note. I left Balliol College in 1968 – perhaps the greatest year of hope and promise, disappointment and frustration in the lives of many of us who are here today. As the only Modern History Oxford American undergraduate of that year, I had learned a few things. Most important of these is that history is actually a story and that you need to know that story. In those days in the United States a history student could focus on a small detail and write a paper on how that single episode or book (in my case The Great Gatsby) told you everything that you needed to know about ten or more years of history. At Oxford, it was critically important to know first exactly what happened. So I began my labors with the near certainty that George III's reign was after that of George II. In due course, I was permitted by my tutors to wrestle with more complex and debatable assertions.

It is a source of continuing satisfaction that the habits of mind that I acquired studying history at Oxford have remained with me. So the first question that I put to myself in preparing these remarks is how did it happen that a panel on business ethics is part of the Keasbey Foundation 50th Anniversary celebration? The three other subjects – medicine and genetics, politics and public policy,

tions and institutions.

Across British Columbia, in community discussions about proposals to the Victoria Foundation program, the goals of reducing risk, building capacity, improving efficiency and providing support that was needed are dominant. The increased use of mobility of Aboriginal service providers, more time in homes (as opposed to having people in need come a great distance into unfamiliar institutional environments) is insightful and reflects a less linear, more holistic approach to service delivery.

Aboriginal values, those of a collective Canada, reflect the synthesis of freedom and socialism that we enjoy in this country. Sharing, respect, dialogue, the balance between self and others – these Canadian values we talk about always seem more Aboriginal to me, than European. Our history and vision both reflect that reality.

Discussions often focused on the key aspects of mental health in individuals, in babies, children, youth, parents, elders, and in extended family members. Spiritualism was discussed in terms of what develops, and then provides deep and sustaining self worth — how individuals see the world, how they give thanks, or accept losses is connected to understanding oneself, most often through culture and tradition.

Self worth was discussed in terms of finding out what's holding people back from self actualization. At all ages, self worth is important. How's it's nurtured, or stifled can make a big difference in personal esteem and empowerment. Building family and community support, raising awareness of the importance of self worth in individuals, communicating community resources, and what is actually possible in terms of healthy individuals, families and communities were talked about at length.

Ongoing communication, the dialogue towards understanding, was often seen as paramount in effecting positive change for Aboriginal children and families. Youth talking to elders, new parents talking to grandparents, the teachings within traditions and the sharing of where to get what current service from which institutions, organizations and individuals, were often discussed in many families, organizations and communities. This level of communication, teaching and sharing services was seen to weave what one woman called a "blanket of care".

Out of many examples from more than 116 projects funded in the Victoria Foundation initiative, in four regions to date, I share with you some of the projects being carried out. (Other project details are available on the Victoria Foundation web site www.victoriafoundation.bc.ca under programs, then children and families, and then under Aboriginal funds by region – North, Interior, Fraser and Vancouver Coastal.)

Many innovative projects are successfully integrating cultural knowledge and best practices in indigenous child welfare into active service delivery. For example, working in eight Okanagan communities with 78 young people in the R'N8ive (Our Native) Voice – Seen and Be Heard youth project, the Okanagan Native Alliance project emphasized that "youth are now" not something that just happens in the future. The program connected young people with their history and culture, developed interactions with Elders and also taught them about the effects of alcohol and drugs with a trip "into the living room of the homeless in Vancouver."

As law students I know you are aware of the implications for Aboriginal and other missing women in Vancouver. Issues of healthy children and families are interwoven in mental and community health, poverty, crime and many other issues that need holistic and reasoned solutions. I was told by project organizers in the Okanagan that self-esteem, cultural awareness and pride and the strengthening of relationships between generations, all helped these young people understand the link between choices made today and the consequences of those choices for later life. This is powerful communication.

In the Lower Similkameen Indian Band, a project called Fostering in Our Communities – Beyond Limitations, is being undertaken. A project coordinator in Keremeos told me – "We understand that the Child, Family and Community Service Act will govern our process, therefore we are making our model of fostering that is more culturally relevant to our traditional customs, which will work within the current law."

Should the law be changed or can it fairly serve Aboriginal people? This is a question that Canadian and provincial legislators, and many of you will question in coming years. Many of us look back in shame at the residential school system and look at the enforcement of law then against Aboriginal individuals, communities and nations. It is with critical thinking that some question the structure of law today that does not recognize extended families as they do a nuclear family. In many indigenous and other cultures the extended family is the social service system.

Stopping the transfer of guardianship to the state is an underlying goal of many of these strategic trust fund initiatives. A person in the Aboriginal Council of Elders in the Fraser Region told a story of when an Elder, who was a guardian of three grandchildren passed away, community organizations were able to stop the apprehension of the children through mediation and consultation. With the Council of Elders support, they were able to place the children with the birth father, who is being assisted by the father's sisters in the raising of these children. She said that this is the

and academia could certainly have been predicted in 1968. Indeed, had the Foundation celebrated its 50th anniversary in 1968 it is possible, even likely that these same subjects would have been chosen. How did business ethics find its way into this core curriculum?

Part of the answer lies in the number of former scholars who have devoted at least part of their career in dealing with one aspect or another of this subject. The planning committee decided on discussions that could draw upon the expertise of former scholars and we found that in business ethics we had an embarrassment of riches. Indeed, I regret that at least three individuals whose participation could have made substantial contributions to this session were unable to attend.

Still, this fact only begs the question. In our Keasbey Scholarship years, most if not all of these people were, like me, unaware of business ethics as an academic subject (because it wasn't). Put simply, why are we talking about issues and problems that none of us studied – at least not in this particular way?

First, business ethics is a subject that now commands the attention of business practitioners and the lay public because of two forces already in motion in 1968: (1) the globalization of markets; and (2) the privatization of norm making. But business ethics is on the agenda not just because it is a matter of public interest. Were that the only reason our deliberations would be without form and possibly without substance. It is also critical that during the last 37 years the academic community has provided the necessary discipline and framework for analysis of these problems.

As for the trends, the globalization of markets has focused the attention of business practitioners and the general public on two key concerns: (1) the terms of engagement between the developed and less developed world; and (2) the need for harmonization of national laws, regulations, and business practice.

With respect to the terms of engagement issue, there is much that would be familiar to the 1968 Balliol history student. Despite the dramatic gains of the world's two largest countries – China and India – there are still, in the phrase that Lady Barbara Ward Jackson made popular at the time – rich nations and poor nations. And, perhaps more importantly, there are rich and poor people – nearly one-third of the world's population subsists on the current equivalent of one dollar a day.

It is less likely that concern for the world's poor would have been regarded in 1968 as an exercise in ineffective sentimentality – a problem perhaps best addressed by permanent elimination of the estate tax –than it might be in some circles today. Fortunately, there is also a positive side to the current level of interest in the poverty of those trapped in countries at the low end of the UN's Human Development Index that was not widely evident in 1968. There is a steep decline in the birthrate throughout the developed and faster developing parts of the rest of the world. Is business enterprise sustainable if it cannot develop new markets? And, over time, if not among the current poor, where will those markets be found? In contrast, in 1968 to paraphrase Tip O'Neil, most markets were local. Indeed, my British friends were surprised to learn from me that the United States also had Woolworth stores.

The globalization of business activity has also been the source of much thinking – utopian and dystopian – about whether the chances for addressing these vast disparities in national wealth have improved or declined. Is the world really flat? And does its flatness create a level playing field that in time will result in greater competition for the rich and better opportunities for the poor? Or, as others have contended, is it spiky – consisting of peaks, hills, and valleys within countries? Or, in the end, just as was the case in 1968, are national boundaries and interests still the controlling facts of global economic and political life?

Whatever story the numbers tell, most would agree that within the current global economic system business is now expected by international organizations, national governments, NGOs, and the general public to work to substantially narrow that gap, not just between the rich and the poor but between the well and the sick. Somewhat reluctantly (less so in Western Europe where stakeholder accountability was a major outcome of World War II) major companies have accepted that challenge – in part, because they believe that the long-term sustainability of their enterprise may depend on it.

Regardless of whether you have a utopian or dystopian view of globalization – or something in between – you will agree that it is unlikely to achieve its full promise without the harmonization of laws and regulations with respect to many aspects of business practice – accounting requirements, anti-corruption policies and privacy and intellectual property protections – to cite just a few of the more prominent examples.

Absent some degree of global harmonization in these areas and other companies will lose much of the ability to plan and allocate resources effectively. Without the measures of certainty and predictability that these processes provide, there will be a greater reluctance to undertake the necessary risks that are essential for growth and profitability.

With or without business ethics, the need for global harmonization is obvious. What makes business ethics important is that without the discussion framework that it pro-

vides, achieving workable trans-border compliance regimes in the subjects that I have mentioned is more problematical. Business ethics provides the discipline for a conversation on the key principles that must be the foundation of an international consensus on accounting practices, anti-corruption policies, and privacy and intellectual property protections.

The second post 1968 trend that has contributed to the development of business ethics is the privatization of norm making. Enforcement of laws and regulations is no longer the exclusive responsibility of governments. Beginning in the US with The Foreign Corrupt Practices Act (1977) and continuing with the legal regime for sexual harassment, the 1991 US Organizational Sentencing Guidelines and its 2004 revisions, companies have been expected to play an increasingly larger role in the prevention, detection, and where necessary, enforcement actions with respect to harmful employee or organizational conduct. These models are now accepted outside the United States in for example, the 1997 OECD Anti-Corruption Convention which is subscribed to by 35 countries – including such non-OECD countries as Bulgaria and Chile.

For business, the privatization of norm making has a practical and beneficial side. Companies engaged in global business practice cannot hope to be fully conversant – let alone in compliance with – the laws and regulations of the 100 or more countries in which they may do business. What is needed instead is a well articulated set of company principles and a decision-making process that rigorously applies them.

Thus far, I have focused on the trends that have brought business ethics to the attention of international organizations, governments, non-governmental organizations (NGOs), companies and the lay public. The rest of the story – the development of business ethics as an academic discipline – has occurred, at least as far as the general public is concerned, off-stage. Because it provides the necessary structure for definition, analysis and rigorous examination of problems, the formulation of the business ethics curriculum may have consequences that are as important for our discussion as the development of global markets and the privatization of norm making.

In the early post Watergate public and Congressional explosion of interest in business ethics that culminated with the passage of the Foreign Corrupt Practices Act (FCPA) in 1977, business schools were uncertain as to how to respond. Was Business Ethics a subject matter expertise that their faculties already had? If so, in which department did it reside?

My own experience in this regard may be instructive. Ten years ago, after writing about business ethics for ten years and teaching it for five I was invited to join a diverse and able group of tenured and adjunct New York University Business School professors who agreed on one thing – the MBA program needed a course in business ethics. Some business schools disagreed – they preferred to integrate ethics questions into individual subjects such as marketing and human resources administration. Our next step was far from easy. We needed to decide what to teach the students.

We determined that the best approach was to ask them to identify, analyze, and solve – to the extent possible – problems that they confronted in their work lives. While a certain amount of general background and case materials were necessary in areas such as insider trading, fiduciary obligations and product liability, we agreed that the key contribution that the course could make would be to equip them with ethics problem-solving techniques.

In this regard, law was certainly a necessary and useful method; but while we were busy designing the course we could not fail to notice that the jails were admitting inmates who had the benefit of advice from the best legal talent that money could buy. Evidently, legal reasoning, even the extra measure of caution beyond minimal legal compliance that a prudent legal counsel would insist on as a requirement for continued representation of the client was not enough. In sum, we needed to look outside the traditional business curriculum to design our course.

Inevitably, we were drawn to philosophical reasoning and its methods for examining the soundness of individual and group conduct choices. And we found that philosophers had developed a comparatively recent interest in business ethics problems. For example, without the work that philosophers have done on subjects such as moral minimums for multinationals and business decision rule-making, the Academy would have had much less to contribute to improved understanding of how the business practitioner can identify, analyze and decide how to address ethical problems.

Economists were also extremely helpful. Recent work on information asymmetries and game theory models affirming the advantages in cultivating long-term relationships of trust enabled us to use the academic discipline that is most credible with business students to demonstrate in concrete ways the benefits of ethical business practice.

In concluding these remarks and opening our discussion, I am reminded of the most important history lesson learned at Balliol. Something only seems inevitable after it happens. In 1968 I could not have imagined that business ethics would someday be a subject that I and others would teach. Today, I do not see how it could have been otherwise.

democratic ideals the best way, from the example of parents and teachers and coaches and pastors and scoutmasters and veterans like you.

They know what America offers for the future, and they know as well the challenge that terrorism poses to our way of life and to a peaceful world.

And they are willing, just as you were more than fifty years ago, to walk up to evil, look it in the eye, poke it the chest, and say, "you've got to get by me first."

Thank you. ◇

Intellectual Property Protection as the Cornerstone of Economic Growth

A CEO'S PERSPECTIVE

Address by Jeff Zucker, President and CEO, NBC Universal

Delivered to the fourth annual Anti-Piracy and Counterfeiting Summit, U.S. Chamber of Commerce, Washington, D.C., October 2, 2007

Thank you. It is great to be here today.

This morning, we heard Tom Donohue forcefully argue that intellectual property protection is absolutely critical to economic prosperity in the twenty-first century—not only in the United States but also around the world, in both developed and developing nations. And you heard Senator Hatch note how critical IP protection is to this Congress and to this nation.

I want to second their call to action and also share with you my perspective on this issue as the leader of a dynamic, growing global media company that has every intention of continuing to be a strong and growing company far into the future.

But first, let me set the stage with four incontrovertible claims that, taken together, serve as our wake-up call.

First, IP theft is a jobs and economic security issue ... with hundreds of billions of dollars a year and millions of high-paying jobs at stake, making it an issue that both business and labor care deeply about.

Second, IP theft is a health and safety issue that presents a clear danger to the public, from counterfeit toothpaste laced with antifreeze to counterfeit medicines to exploding batteries and other dangerous consumer goods.

Third, IP theft is the new face of organized crime. Organized crime goes where the money is, and today that is high-value IP-dependent commerce such as manufacturing millions of bootleg DVDs and millions of bottles of counterfeit medicine.

And fourth, IP theft is getting worse, not better, across a broad range of key sectors of the U.S. economy. The unfortunate truth is that today we are losing the battle. At this Summit, all the many sectors plagued by counterfeiting and piracy must commit to working together to convince policymakers of the urgency of the crisis and the pervasiveness and corrosiveness of the threat. Our unified voices will carry far more weight than the pleas of individual industries.

That's why I applaud the work being driven by Tom Donohue, David Hirschmann, and Carolyn Joiner and their team at the Chamber, and by my colleague Rick Cotton—who in addition to being General Counsel of NBC Universal is also the Chairman of the Coalition Against Counterfeiting and Piracy—a coalition led by the Chamber and by the National Association of Manufacturers that includes more than 400 companies and associations. I want to congratulate and thank them for all their efforts.

Today I want to address both the enormous scope of the counterfeiting threat we face and the increasingly clear steps we need to take to counter this profound threat to our economic security and to our health and safety. In terms of the threat, I am today announcing stunning new evidence of the extent of the damage that counterfeiting and piracy inflict on the U.S. economy. The simple message from this new data: If we do not reverse our dangerous drift toward a stream of commerce hopelessly polluted by counterfeit and pirated goods, the future growth prospects for the U.S. economy and for our children's futures will be severely compromised.

In addition, I want to outline specifically the agenda we need to pursue to stop this drift toward a bleak future. We can reverse today's trends. We know the way forward is through increased and focused government enforcement efforts; through enhanced private sector cooperation; through increased utilization of technology to authenticate legitimate goods and to identify and block pirated and counterfeit products; and through increased international cooperation. The question is only whether we have the will to do what is required.

First, the new evidence. The Institute for Policy Innovation is today releasing a new study that continues an important process of documenting the full devastating impact of counterfeiting and piracy on the U.S. economy.

A year ago at this event, the IPI released a study that attempted to paint a complete picture of the im-

pact of movie piracy on the U.S. economy. That study analyzed the movie industry's losses to determine the full upstream and downstream economic consequences including lost economic output, lost jobs, and lost tax revenues, utilizing a sophisticated methodology developed by the U.S. Department of Commerce. The study concluded that an estimated $6 billion in industry losses due to movie piracy actually equals lost economic output of more than three times that much—$20 billion.

Today I am very pleased to announce that IPI has now completed a larger study which applies the Department of Commerce's analytic methodology to the entire copyright industry, and the results are staggering. IPI is announcing today the publication of "The True Cost of Copyright Industry Piracy," a project carried out by economist Stephen Siwek.

His study concludes that the total output lost to the U.S. economy on an annual basis from IP theft among the copyright industries is nearly $60 billion a year. What's more, this illegal activity costs American workers 373,000 jobs. And it costs governments $2.6 billion in tax revenue.

These losses flow from IP theft just within the copyright industries alone. When you add counterfeiting in other sectors, the costs represent a tightening chokehold on U.S. economic growth.

What we all have to realize is that these numbers are not abstractions, they are real. Let me bring this down to my company. At NBC Universal, we are committed to growing our business, and to do that we are focusing our expansion on two key areas: digital and international. We are ripping apart old business models and pioneering radically new ways of reaching our audience.

We are investing big time in these growth areas and we plan to invest more. From NBCU's point of view, we are committed to delivering growth to the shareholders of our parent company, General Electric. From a public policy perspective, these investments will create jobs, drive upstream and downstream economic growth, and generate increased tax revenues, both in the U.S. and in key countries globally.

Take our digital initiatives. New digital technology makes it possible for consumers to gain access to our content in all sorts of ways never before possible. We have embraced the new capabilities of digital distribution, and we are making big investments to make this happen. Right now—or within the next few weeks—if you miss this Thursday's season premiere of 30 Rock—with special guest Jerry Seinfeld by the way—we have made multiple options available to you.

- You can go to NBC.com and watch it free through a video stream.
- You can go to NBC.com and download it for free and keep it for seven days.
- You can go to Amazon.com and buy it and keep it forever.
- In increasing parts of the country, you can watch it on-demand through your cable or satellite operator.
- If you have the right calling plan, you can even watch it on your cell phone.
- In a few weeks, you'll be able to stream 30 Rock from Hulu.com, our new joint venture with News Corporation, and from any of a slew of Hulu's distribution partners such as MySpace, Yahoo, or AOL.
- Or, if you want, you can wait until the end of the season and buy the DVD.

What incredible change. Our business models today are changing faster than a Saturday Night Live skit gets posted on YouTube! Free or fee-based, ad-supported or ad-free, on screens small, medium, or large ... we are there, wherever and however the consumer wants to consume content.

But all these new distribution capabilities and new business models need to get critical mass, they need to get legs. Their future will depend critically on our ability, as the copyright holder, to protect this content from being stolen and to prevent our new distribution models from being compromised at birth by pirates and counterfeiters.

The same thing is true of our international efforts. NBCU recently made a major acquisition of Sparrowhawk Media, which gives us 18 feeds of the Hallmark Channel overseas, reaching 60 million subscribers in 152 countries. Our NBCU Global Networks include the SciFi Channel, our Universal Studio channel, and 13th Street, which is our global mystery and adventure channel, along with CNBC Europe and CNBC Asia. We are expanding these channels into 30 more countries over the next three years. This augments our already robust international film production and international TV production businesses, which we are also expanding.

NBCU's ambitious plan to drive tremendous global growth also depends on IP protection. Our channels and our content production drive value, which in turn drives investment, job creation and increased tax payments to government—but only if that value is not undercut and destroyed by piracy and counterfeiting. Our global growth cannot succeed in countries where piracy claims 50, 60 or 95% of the market. And today we face that situation in far too many countries around the world.

In short, what we now know is that piracy and counterfeiting in the copyright industries suck nearly $60 billion a year out of the U.S. economy. The copyright industries do not include other major IP-dependent sectors, where economic vitality rests on innovations and reputation protected by patents and trademarks and whose growth is similarly impacted.

We still need studies to quantify the full impact on the U.S. economy of these other sectors. But based on the size of the damage estimate within the copyright sector, I predict that we will soon conclude that the FBI's 2002 estimate that U.S. industry loses some $250 billion

a year from counterfeiting and piracy is probably too low and too conservative.

Let me now turn to the question of what to do. The road we need to travel is neither short nor easy. But I believe we already know many of the steps we need to take.

We need—across the board—to move IP enforcement up the agenda of the federal government, within the White House, within the Department of Justice, within Customs and Border Protection, and within U.S. embassies around the globe. And we need dedicated resources—including policy-making executives, prosecutors, investigators, customs agents—who are exclusively focused on IP enforcement so that IP protection receives the priority it deserves and does not get eclipsed by other pressures.

I am delighted that the legislative proposals of the CACP, currently being discussed with the Congress, offer the promise of making great progress on this front. We also need action by state and local governments. We have started the process of engaging Governors, Attorneys General and Mayors, and we must escalate these efforts. I encourage the Congress to create, as the CACP has proposed, federal grants to states and cities to develop model IP enforcement.

And the good news about these increased enforcement efforts is that they will more than pay for themselves. Our analysis suggests that every dollar spent on increased IP enforcement will return between $4 and $5 in government revenue from the resulting increase in legal economic activity.

In addition to government action, we need private sector intermediaries to get on board and become part of the solution, rather than part of the problem. The Chamber of Commerce and others have begun the process of engaging in dialogue with ISPs, with auction sites, with search engines, with retailers and with financial intermediaries.

Beyond these sectors, in my own video world we need universities, user-generated content hosting sites like YouTube, and the Consumer Electronic and IT industries that manufacture home devices and future home networking equipment to take strong technology-based action to prevent their infrastructure from supporting distribution of pirated content.

With respect to financial intermediaries, we need advertisers, ad agencies, and credit card companies to take steps to assure they do not provide financial support for web sites that are overwhelmingly devoted to making available pirated and counterfeit products.

I am optimistic that you will see significant announcements in many of these sectors in the coming months that will demonstrate important forward progress.

Internationally, we need not only to keep the focus on the well-known IP protection issues in China and Russia, but also to encourage more aggressive enforcement activities in all countries, as the CACP has done in the U.S. The recent trilateral summit between the U.S., Canada and Mexico committed all three countries to a strategy for stronger IP protection. The Canadian government in particular has already begun to move. President Sarkozy of France has placed the fight against online piracy as one of his administration's top objectives, naming a blue ribbon commission last month to develop proposals on a rapid two-month timetable. We need similar actions by all our major trading partners.

And finally let me say a few words about an underappreciated aspect of the fight against piracy and counterfeiting, whether in media or any other industry—namely, the role that technological protections can and must play.

I remember the day when you couldn't park a car on a street in New York or Washington without putting a sign in your window that said "No Radio!" When was the last time you heard of someone having their car broken into for the radio? The difference? Security codes that render a stolen radio unplayable.

Remember when the theft of cable service was rampant? No longer. The difference? Vast improvement in the technology of encrypted cable signals, which has reduced runaway cable signal theft from a major industry problem to a rare occurrence.

The fact is, technology has been and continues to be an incredibly powerful tool to combat theft, whether we're talking about hard goods or digital goods. These technologies will never be perfect, just as the best security systems in the world will never totally eliminate bank thefts. But committed development of technology has the potential to reduce dramatically the traffic in counterfeit and pirated products.

Governments are printing their currency with holograms and special color-shifting inks, and companies are using these same advanced optical technologies to make accurate counterfeiting of labels more difficult and genuine products easier to identify. Companies are using RFID technology, covert markers, some even using nanotechnologies, to help customs and other experts to distinguish between authentic and counterfeit goods. Today, over 20% of Fortune 500 companies use these technologies in some of their product lines. These authentication technologies are developing rapidly, and hold great promise for the future.

On the digital side, the conventional wisdom has been that technology is not up to the task of protecting digital content from piracy. It's a lost cause. Game over. You can't protect a digital file made of ones and zeroes that can be endlessly replicated and distributed all over the world at the speed of light and at virtually no cost.

But that, to put it in a word, is baloney. Technology is not just something that feeds piracy. It has both the promise and increasingly the reality of a powerful engine that can be harnessed to effectively combat it.

Let me illustrate the potential of technology by using my industry as an example. There are five areas in which we've seen real, tangible progress and the early stages of what will be widespread implementation of technologi-

cal solutions. These involve ISPs; user-generated content websites; the university community; manufacturers of home electronics and home networking devices; and auction sites and search engines.

Let me comment briefly on each of these.

First, ISPs.

ISPs are critical because over their wires and cables our movies and television shows are illegally distributed every minute of every day around the world. It turns out, however, that ISPs are coming to recognize that pirated video hurts them as well.

It hurts them because bandwidth hogs are abusing ISP networks so egregiously that some 50 to 60% of many broadband networks are dedicated to carrying peer-to-peer traffic that largely consists of pirated video. Law-abiding customers find their online experience suffering, and expensive infrastructure is diverted from other fee-paying uses.

It hurts them because the pirates compete with the ISP's ability to sell—over the Internet or through video-on-demand television services—the movies and television shows that they and we sell to the ISPs' customers.

Thus more ISPs in the U.S. are now agreeing to send notices to customers when they are caught infringing, educating them about legal alternatives, and warning them that further illegal activities will result in sanctions, including termination of their account.

But sending notices, while important, is only a stop-gap measure. The development of filtering technology is the best shot at relieving clogged networks by keeping copyright-infringing content off the networks in the first place. Technology is the key to impeding the downloading of pirated content while speeding the downloading of legitimate content. This helps everyone: it frees up bandwidth for ISPs ... speeds up connections for consumers ... and helps content companies and ISPs—increasingly in the content distribution business—protect their assets.

AT&T and its CEO, Randall Stephenson, and Senior Executive VP, Jim Cicconi, are in particular to be commended for publicly leading the way and making a significant commitment to expand their research efforts to develop tools to reduce piracy while protecting their users' legitimate expectations of privacy.

Within the next few months, we hope to see the vast majority—if not all—of the eight largest U.S. ISPs embrace this approach.

Second, user-generated content sites. Today, I am happy to report, the technology exists that recognizes copyrighted content that the copyright owner does not want uploaded, and block such content from the sites. The good news is that major sites like Microsoft, Soapbox, and MySpace are using it today. It works. It will work even better in the future, and soon should become the industry standard.

Third, universities. University students are responsible for 44% of the revenue loss from piracy to the major studios, over $500 million per year. Filtering technology that will not permit copyrighted content to be passed over university networks is available, and more than 80 universities are using it to great success right now. Major public and private universities across the country should be moving rapidly to adopt these tools.

Fourth, home networking devices and other home electronics. It is clear that protections can be built in so that pirated content cannot be easily played and moved around in the home environment, while legitimate material plays without consumers even having to think twice. We've had success working on standards for high-definition DVDs ... we need to extend this work to new devices that are on the drawing board. The technology for this exists right now. But we need the Consumer Electronic and IT companies to add the code readers to the hardware to make it effective.

Fifth, auction sites and search engines. Rights holders are working with auction sites, like e-Bay, and search engines, like Yahoo!, Microsoft and Google, to develop policies and software algorithms that don't disrupt their legitimate business, but make it a little less easy for counterfeiters and pirates to misuse their services to distribute their illicit products to witting and unwitting consumers. The CACP is working with these entities on developing best practices where technology is an important component.

I'm pleased to say that we have had very encouraging private conversations about using technology to thwart piracy with many of these intermediaries, and we very much look forward to the day soon when these private conversations become public commitments.

Let me make one final point. As I mentioned earlier, the CACP has developed a number of important legislative proposals to address piracy and counterfeiting. We expect that many of these proposals will be incorporated into important legislation in the judiciary committee and other committees. I want to call on each and every one of you to do everything possible to support these bills.

Many important issues that Congress faces—healthcare reform ... social security ... taxes ... the war in Iraq—have bogged down over partisan differences and debates between entrenched interest groups. Yet here is one issue that every member of Congress should without question be able to stand behind, because it is about the future economic health of our nation.

That is why the type of approach championed by the CACP has the support of business and of organized labor as well, as evidenced by a recent resolution adopted by the "Change to Win" coalition that includes the Teamsters and other major unions.

Effective governing is about making hard choices, difficult tradeoffs. But when it comes to strengthening our protection of intellectual property—the engine of economic growth—there is no other choice. ◆

Our ads have demonstrably opened up a better dialogue between patients and their doctors. Countless viewers have gone to their doctors early, not late, and asked the right questions based on what they saw in an ad. The truth is, direct-to-consumer advertising has saved lives.

But it's also raised resentments.

Like any marketing message, our ads are aimed at potential markets – patients with specific conditions. If you have bad heartburn, you'll pay attention to an ad about that, and react differently from someone who doesn't.

The problem isn't the targeted group. The problem is everyone else – the viewers who sit through dozens of ads about medical conditions they don't have. They get annoyed; they perceive it as trivializing medicines and infantilizing patients; and the effect is cumulative.

So we're changing our advertising in two ways.

One, our ads for specific medicines will emphasize prevention and health, as well as medicinal benefits. They'll also present a balanced treatment of benefit versus risk.

And two, you'll see more advertising that talks about health in a broad sense, not about a specific medicine. At Pfizer, we're diverting the rough equivalent of an advertising budget for a major medicine toward treating 'health' itself as a brand – teaching patients how to take more-informed control over their health through commercial messages that don't mention a medicine.

Overall, you'll see more of an emphasis on prevention and good habits, and more of an effort to support the doctor-patient relationship – a relationship of trust that we as a company and an industry must and will support.

In other words, these reforms are meant, first and foremost, to support the patient.

That leads me to the final 'T-word.' Trust.

Our industry, frankly, is at the crosshairs of two things people care about most – their money and their health. They perspective is that they earn the first and deserve the second – that's their starting point. From there, it's an easy leap to resent those who offer something you truly need. Dependency breeds resentment, which can turn into rage and finally into revenge.

This doesn't hurt just us. It hurts patients. When we carry messages important to health, too often, we're just not believed and those messages aren't heard. So it's important for us to earn back trust.

But meantime, if the public won't trust our voice, we need to find others whose voices they do trust to carry these deeply important messages. The message that medicines are available for people who can't afford them, for instance.

So in July, we helped kicked off a national program called the Partnership for Prescription Assistance, or PPA. I hope you've seen some of the TV ads that promote it. It brings US pharmaceutical companies together with doctors, other healthcare providers, patient-advocacy groups and community organizations to help American patients get affordable medicines more easily.

The problem isn't a lack of help. At last count, there were 475 programs to get medicines to low-income patients at deep discounts or even for free. One-hundred-fifty of those programs are offered by pharmaceutical companies, including Pfizer's program, called Helpful Answers.

The problem has been that there are so many programs it's been confusing to patients. Which one is best? How do you find it?

This new PPA program will help. It greatly simplifies a confusing process for patients by making it easy to navigate the system with just one toll-free phone call. It encourages those who need help getting affordable medicines to make a call that's answered by a real human being – not an automated maze of voice-recognition commands. With a few questions, callers are directed to the best program for them. They can also go to a website if they'd rather. This one-stop-shopping mechanism will stay in place into the indefinite future, to keep helping as new programs become available.

We're also working with former Senator John Breaux on a bipartisan effort called "Ceasefire on Healthcare" to reduce the political grandstanding and partisan bickering in this critical policy area. We intend to find national solutions to the problems our healthcare system is causing patients and doctors.

We're working with trusted partners on a local level, too. Here in New Jersey, we're partners in the Rx4NJ program, which is off to a very strong start with 60 healthcare providers representing patients and physicians, and run by the HealthCare Institute of New Jersey, led by former Congressman Bob Franks. We also support various excellent hospital and Veterans Health Administration programs, such as the work done by Somerset Medical, Healthy Congregations, Saint Clare Medical Center Homeless Outreach, and others.

These partnerships help patients in tremendous need by educating them on taking control of their health, encouraging their dialogue with doctors and guiding them to free or discounted care.

As these improvements take hold, we hope to earn and regain the trust that poll after poll... shows has badly eroded over the past few years.

It may have already started. The Newark Star-Ledger last Monday ran a story we took as a glimmer of hope. It should tell you something when a pharma executive is

encouraged by a headline that reads, "New poll shows that fewer respondents think [pharmaceutical] firms are doing a bad job." But I am encouraged. The story reported a new Star-Ledger and Eagleton-Rutgers poll showing that New Jersey residents think we've gotten 10 percent better at addressing their health needs over the past year.

A national Harris Interactive poll a few months ago showed the same trend – a 17 percent improvement across the US. So I hope that perception is starting to reflect reality.

We'll keep working to earn and deserve more trust from the public. To help, we'll share some facts that traditionally have been counter-cultural for us to talk about.

Finding the balance between informing and bragging isn't easy when you talk about philanthropy. But when a scholarly journal lists you as the world's most-generous company, as they've done with Pfizer, what do you do with that news? What typical person reads the Chronicle of Philanthropy? But maybe people ought to know.

When the United Nations invites you to be the only private-sector representative at a major conference on lessons learned from the tsunami disaster, as it did with Pfizer, based on how efficiently we sent money, medicines, manpower and skilled professionals to help – what do you do with that news? Maybe people ought to know.

When The New York Times runs an op-ed calling for pharmaceutical companies to establish a Peace-Corps-like program to help developing countries, and criticizing us for not already doing it – when actually, we have, and in fact, it's the mechanism that the United Nations praised – what do you do with that information? Maybe people ought to know.

These are not the patient's problems. They're not the doctor's problems. They're not The New York Times' problems.

They're our problems. We understand that, and we must work to solve them, through respect for time, transparency and trust.

The best way to do that, as I said earlier, is to consider the patient first. This includes promoting good diet and regular exercise, preventing disease and managing chronic conditions early so they don't get worse.

This includes encouraging better communication between doctors and patients, and encouraging people to take control of their own health – and that of their families.

This includes planting the seeds of good health in the minds and habits of very young children, so these ideas will grow throughout life.

All these efforts demand a state of constant gardening.

But their harvest is health.

And that's huge.

Ensuring the Safety of America's Drug Supply

STOPPING COUNTERFEIT DRUGS

Address by SCOTT GOTTLIEB, *MD, Deputy Commissioner for Medical and Scientific Affairs, Food and Drug Administration*

Delivered to, Washington, DC, September 20, 2005

At FDA, the growing prevalence of counterfeit drugs, and the growing sophistication of those who make their trade in this illegal business, worries Commissioner Crawford and all of us a great deal.

There is no question that these problems, and the flow of counterfeit drugs around the world, are mounting.

But on the whole, the United States has a very safe prescription drug supply, and FDA is working hard to keep it that way.

This is not something that we can take for granted. If you look around the world, in many countries a quarter or even a half or more of the prescription drugs that people take are not legitimate products.

Studies by the World Health Organization have shown that of developed markets, this is especially true in Europe, where parallel trade has created porous borders and permeable controls that leave many opportunities for counterfeit drugs to enter Europe's supply chain.

This is especially true for drugs taken to treat chronic conditions such as high blood pressure or high cholesterol, which seem to be among the preferred targets of the counterfeiters.

These counterfeit drugs may be contaminated or may not work as intended, and that's a real public health concern.

And although the counterfeiting of drugs is still not as widespread in this country, we have seen a significant increase in counterfeiting activities around the world.

And even more worrisome, we have seen an increase in the sophistication, the cleverness, and the technical capabilities of counterfeiters that are trying to get drugs into the U.S. distribution system.

In 2000 FDA opened 6 counterfeit drug cases, in 2003 we opened 30, and last year we opened 58.

And as we are trying to do in other areas of FDA activities where there are new technologies that can be valuable, we want to bring them to benefit patients as soon as possible.

And while some of these technologies do seem just a short time away from widespread application, others have not been fully developed yet and demonstrated to be feasible. We will continue to work with the private sector to foster advances in this field.

But as our colleagues at other agencies who are also experts on counterfeiting technology have told us, there is no single magic bullet. Not only do many of these technologies need to go through some further developmental steps, counterfeiters are very sophisticated today, so this is a moving game.

We constantly need to be finding ways to update our technologies. We constantly need to be thinking about whether we've got enough layers in place.

There's no one magic bullet.

We need to think simultaneously about a coordinated approach that involves tracking and tracing and product packaging and product-embedded technologies and others.

In short, we need multiple layers to keep our drug supply safe.

Our money supply, just the paper money, has more than 20 embedded technologies, both overt and covert and some that are only known to the Treasury Department that handles the money.

We need multiple layers like that to build more safety and security in prescription drugs as well, and we're going to be working to bring forward proven technologies, and to develop the proof for these other technologies.

We need to bring them forward to improving our drug supply as quickly as possible.

But no one technology is going to assure safety and security. So we need to maintain vigilance over our entire drug chain.

So certainly, this is not a time when we should be going in the exact opposite direction, and weakening the controls we already have over our domestic drug supply.

We need to be adding further measures to ensure the integrity of the supply of vital medicines, not dismantling the measures that we already rely on.

For this reason, it is hard to have a discussion about counterfeiting without also addressing, at least in part, proposals that would increase or legitimize widespread importation of foreign drugs.

These kinds of policy proposals mean many different things to the many people that have grappled over this issue over the last five years or more.

But simply put, for the professional staff at FDA that is charged with ensuring the safety of our drug supply chain, in means one thing above all else:

The importation of foreign drugs through middlemen, through storefront pharmacies, and through foreign websites, represents a new and gaping hole in our controls over our drug supply. These holes are already being exploited by those up to no good.

And no amount of well intentioned legislation, to apply a safe way to check the drugs coming in through these different importation schemes, is going to fully guarantee their safety.

All of these schemes are going to weaken our controls, some more than others. And so any consideration of importation needs to come down to a question of how much safety you want to demand, and how many corners you are willing to cut.

And one more thing: These importation schemes are utterly inconsistent with many of FDA's fundamental goals and its fundamental practices.

The same regulatory agency that is called upon to tease apart subtle distinctions about hard to measure risks inherent in certain drugs in one room, is being asked by some to go into another room and open up big holes in the controls over the kinds of drugs that we allow into the U.S., and not be as worried that many of these imported drugs may have co-mingled with counterfeits that are contaminated or sub-potent.

The same agency that is asked to work diligently to write well reasoned, careful labels on newly approved drugs identifying all of their risks and benefits in one room, is asked to go into another room and overlook the fact that there are imported foreign drugs coming into this country with the wrong labels on them, with no labels on them, or with labels written in languages other than English.

The same agency that asks drug developers to sponsor ten thousand patient clinical trials to tease apart the preferred dose of a new drug in one division is being asked by some to formulate a separate division that would allow drugs that are in the wrong formulation or the wrong dosage to be imported.

It is hard to imagine being able to maintain all of these kinds of inconsistencies and still sustain the same kinds of controls on safety that people expect and rely on today.

And so asking the question about drug importation and of whether we want to strengthen our grip over the drug supply in the face of rising counterfeiting or weaken those controls in the name of price considerations is also asking a fundamental question about what we want out of our drug regulatory agency.

These are fundamentally difficult questions, and many people are rightly concerned about the high prices on many

This increased enforcement activity is not only a function of the fact that we are looking harder for these problems. But also, that we are finding many more of these problems crossing our desks during our routine, daily work.

Just this past month, on August 31st, we busted up a Lipitor counterfeiting and smuggling operation that was trafficking almost $50 million worth of the drug.

This is a real public health threat. As we have seen from the counterfeit cases that we've already encountered and in many cases solved and put people in jail, counterfeit drug products may contain only inactive ingredients, they may contain incorrect ingredients, improper dosages, sub-potent or super-potent ingredients, or they may be contaminated.

The result is risks to patients' health, either risk to their safety directly if the products are dangerous. Or risks from people suffering from complications from the many diseases that prescription drugs can treat today — but that the counterfeit versions cannot.

So this is a serious concern at FDA.

With these more sophisticated drug counterfeit operations, FDA and all law enforcement activities that are partnering with us need to be even more effective in meeting these new challenges.

One of our proposed remedies at FDA is to strengthen our system for tracking drugs from the assembly line and right to the patient's bedside, by replacing the paperwork that now certifies the integrity of a pill with an electronic track and trace system that cannot be easily forged or forgotten.

This can be technology as miniscule microchips or "taggants" that go inside pill bottles, or even inside the individual pills. There's been considerable progress made in developing and deploying these sorts of technological tools.

Right now, we have given manufacturers more time to deploy this kind of technology. We have also put a stay on a rule that would effectively require these kinds of measures, a paper pedigree rule, to give people more time to move from paper pedigrees which would not provide the same kinds of protections to electronic pedigrees, which would. New technology would allow for less costly compliance, and better controls. The rule is written broadly enough so that electronic track and trace could be used in place of paper pedigree. We plan to make a decision soon on this stay, which is in place until December 2006, and we could reach a decision before that.

There are already many promising technologies out there such as radiofrequency identification techniques, new applications of bar code labeling, new approaches to doing track and trace technology so that we can reliably, in ways that cannot easily be fraudulently faked, identify whether a product really is a legitimate one, whether it comes from a legitimate source and has not been tampered with along the supply chain.

We've seen new technologies for packaging, new color-based technologies that embed multiple different layers of protection.

We've seen new anti-tampering technologies for drug packaging. Even the tops of injectable drugs that can help keep the product secure.

And we've seen new technologies that can be used on the drugs themselves, from new color technologies to bar codes embedded, not just unit-of-dose packaging but actually on the drug, to other taggant and chemical technologies that are not harmful for patients but that can make it very easy to determine whether a product is safe or not.

These tools do everything from make it easy for us or others to do chemical testing on the product's legitimacy to making it easier for patients to identify whether the product is a legitimate one or not by a distinctive taste.

So there are a lot of potentially valuable technologies out there that are in development right now, and in some cases are starting to be applied to the pharmaceutical industry.

In some ways, the drug sector is behind other industries where secure track and trace approaches and secure anti-counterfeiting technologies have become more widespread.

That needs to change, and it is changing.

These technologies together constitute what we call an electronic pedigree, and we believe that these would go a long way toward starting to meet many of the modern needs of the Prescription Drug Marketing Act, the principal law in this country that protects our domestic drug supply from dangerous foreign imports.

In fact, this law was passed in part, in direct response to a widely reported case where counterfeit drugs that were sub-potent made their way into the U.S. drug supply. But that was a long time ago, the counterfeit drug problem has grown much worse, and so our tools for dealing with it need to advance as well.

Many people believe that FDA interprets our counterfeit drug report that we issued to address this growing threat as saying that we want RFID implemented by 2007. We said that an electronic pedigree should be feasible by 2007, and right now, RFID is the most promising technology to help deliver on that need.

We believe that we can accelerate the development, the testing, the feasibility testing and the cost-effectiveness testing, of many of these technologies that are in development today.

drugs, especially people who can least afford to pay for medicines because they lack good health insurance, or have no insurance at all.

And many people are rightly angry about the lower prices that drugs cost in many foreign nations because those countries impose strict controls on the prices that U.S. and other manufacturers can charge for their products overseas.

And so, at FDA and across the government, we are also continuing to champion safe ways to lower drug costs through expanded coverage offered by the new Medicare prescription drug benefit, through more steps to make OTC drugs available, through more steps to lower the cost of bringing safe and effective new drugs to the market and to develop information that guides their smart and appropriate use, and through more steps to allow people to make wider use of safe and effective generic medicines. In fact, Generic drugs represented more than 66 percent of the total prescription doses sold in 2004.

Finally, and in closing, we know that we cannot solve the counterfeit drug problem working alone.

Counterfeit drugs are a global problem. We're seeing an increasing number of cases that involve not just a few people manufacturing a fake product in their garage, but well-organized international criminal operations that are trying to make use of the latest technologies for making a product that looks like the real thing but isn't.

And so we need help of international law enforcement, health and regulatory authorities, as well as private stakeholders internationally to help us address this problem effectively.

We cannot just secure our borders and turn our head to the larger problems that are occurring elsewhere.

So we have consulted with regulatory authorities around the world from Taiwan to Morocco to Malaysia, China, and Sub-Saharan Africa. We continue to build these relationships.

We are also working very closely with Interpol and various law enforcement entities in various countries on specific cases, as well as the World Health Organization on a broader strategy to address the global problem. The WHO had a meeting last year with drug regulatory authorities and we expect to meet again in the coming months.

To those of you who are working on ways to combat the growing traffic in counterfeit drugs, at FDA we want to thank you for your contribution to dealing with this significant emerging public health threat.

At FDA, we are confident that working together we can stay ahead of those who are out to make a fast buck at the expense of the health of Americans.

And we are sure that we will be able to work together to keep our drug supply safe and secure and the safest in the world if we do remain vigilant through steps like this.

Thank you all for your contributions.

Strengthening Aboriginal Children and Families

BUILDING CAPACITY IN ABORIGINAL COMMUNITIES AND NON-ABORIGINAL INSTITUTIONS

Address NIGEL ATKIN, Instructor/Consultant

Delivered to 10th Aboriginal Cultural Awareness Camp, L'au,welnew Tribal School, Tsartlip Nation, Brentwood Bay, British Columbia, Canada, October 1, 2005

I would like to thank the organizers of the 10th Annual Aboriginal Cultural Awareness Camp for the opportunity to address community Elders, community members, the University of Victoria law students and others who are building bridges to improve Aboriginal and non-Aboriginal relations. I thank the Sam Family, especially Dr. Samuel Sam, O.C., and the Coast Salish people for inviting this exchange of teachings on Tsartlip First Nation land.

In the past decade many participants from the UVic Law School have been exposed to, and benefited from experiences in Coast Salish protocol, traditional law, governance, customs, sports, games, humour and more. For some of you it is opening the door to Aboriginal culture for the first time. For others it is a new opportunity to go deeper into an Aboriginal culture – that of the Coast Salish people resident here on the Saanich Peninsula.

Dr. Sam has often told us that people can not respect what they do not understand. Seeing you here indicates there is a great willingness to both understand and respect traditional culture. It is an honour for me to witness the positive experience of this four-day cultural awareness camp.

I recently worked with the Victoria Foundation to help bridge communication between the foundation, four regional trust advisory committees, and many First Nations, independent Bands, Metis and urban Aboriginal organizations to effect change towards what many Aboriginal lead-

ers call for – the ability in law and capacity to administer services to their own children and families.

Funded by the provincial Ministry of Children and Family Development and administered by the Victoria Foundation, regional community-based committees composed of members from Aboriginal sectors in BC sought proposals from Aboriginal communities that would strengthen the transition to Aboriginal children and family program management. These committees disbursed some $2 million per region at arms' length from government. Many communities were pleased to be asked what they would do to support Aboriginal children residing within their families and communities.

In this unique program, grant criteria included projects that: provided "new" strategic and innovative approaches; supported culturally-sensitive alternatives to caring for children and extended families; supported community capacity to strengthen families; promoted less intrusive measures; encouraged proactive family issue resolution; and ultimately reduced the number of Aboriginal children in care.

Many of the programs funded these past two years are making a direct and strategic difference to children, their families, their communities, their heritage and culture. As well, in many cases programs are impacting British Columbia, Canada and the wider non-Aboriginal society.

There are people enacting systemic change and making it easier for Aboriginal culture to interface with institutions. There are Aboriginal family support workers, youth liaison workers and a host of other alternative variations, including new Aboriginal organizations, where Aboriginal workers have their feet in both cultures providing liaison between families and institutional service providers. They often act as cultural "interpreters", thereby lessening the fear and developing trust with Aboriginal individuals, their children and families. Some individuals are providing "bicultural" services, recognizing the value of both Aboriginal and non-Aboriginal paths that can be followed. In today's world, both are recommended. People who can function well in both cultures not only serve themselves better but they also demonstrate a useful model to emulate as the trends of globalization and tribalism accelerate on the national and international stage.

In this regard and to add context to what is happening I like to place things in historical perspective. In my father's youth in the mid1930's the great issue of Spain and the Spanish Civil War created emotional, intellectual and physical tension for many people, both inside and outside of that country. Where people stood, in their opinions and their action - what they actually did in regarding that war - always intrigued me. More recently, in the 1980's the issue of Apartheid in South Africa challenged societies around the world to support and to do the right thing. The complexities in that country have always been of interest.

But most of that is now history and we cannot participate in what has already been. But we can be awake to the time in which we live today - here in Canada, here in British Columbia.

A friend of mine works extensively with emerging and reemerging societies. He helps countries and nations develop sustainable systems to generate funds to support democratic institutions that can, in turn, deliver the services needed by its communities of citizens. Upon returning from Africa and South America a couple of years ago, he said there was only one Supreme Court in the world that held the hope of the world's indigenous peoples, and that was Canada's Supreme Court. Our Supreme Court is seen by many people in Canada, and in other countries as fair and just.

As law students you are, by being here today, participating in one of the most pressing challenges of our day – that of how a globalized world interacts with the world's Indigenous people. Does it equal the ramifications of the Civil War in Spain or the struggle against Apartheid? History will tell.

Internationally, the legal profession and the legal institutions play a major role in developing and sustaining social and economic relationships that are just. Witness the war crimes trials in Rwanda and Serbia, trials in the Hague. Witness the advancement of gender, human and civil rights.

In British Columbia, reconciliation with Aboriginal people is being watched by many people in this province, across Canada and by governments and indigenous people in other countries around the world.

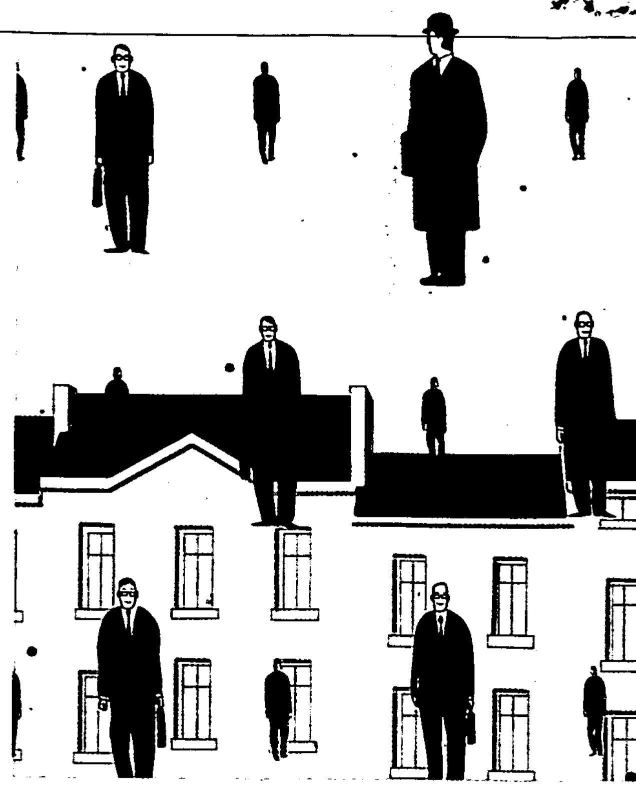
In the past century, totalitarianism, colonialism and genocide were the grave markers of the world's recent history. Reconciliation in places like South Africa and here in Canada, signify the hope of the world. How Aboriginal people deal with their own governance in Canada and how Canada deals with issues of justice could significantly determine how Indigenous people are treated in other countries. That is the potential for the next century. That is the bigger picture. That is the hope of the world.

There is a long way to go in bridging cultures, evolving the institutions with the needs of individual families in Aboriginal communities, but many people are quietly making a difference in their own territories. At the same time, there are also many non-Aboriginal people effecting a respect and understanding of Aboriginal culture and tradition in institutions. It isn't just Aboriginal people who need to build capacity. Capacity to handle Canada's diversity also needs to be developed in non-Aboriginal organiza-

IT'S NOT JUST WHO YOU KNOW

The rise of the "professional Web" lets you collect colleagues like Pez dispensers. Resist the urge.

By David Lidsky



AMID ALL THE CHATTER about user-generated content and Web 2.0, another class of Web services has been quietly gaining momentum. Call it the "professional Web": online services designed explicitly to help you manage your career and do your job better. LinkedIn, for one, has been adding 120,000-plus members a week and now has almost 10 million total. Users of Jigsaw have compiled more than 5.3 million business contacts, adding 12,000 a day.

Right now, the most obvious value that these services provide is the opportunity to own (and control) your online identity. LinkedIn, as well as the services Ziggs and ZoomInfo, let you create a profile for free. (ZoomInfo also proactively aggregates Web info about professionals—34 million so far—and lets you verify your identity.) Search for a name and these profiles generally show up in a search engine's top 10. This is a low-stress way to control your image and, incidentally, make yourself a passive job seeker.

Still, a site can't necessarily build a business on such a narrow premise, so each service is adding features designed to get us to use them more. Ziggs, for example, has ambitiously rebuilt its people search engine into a Web desktop where you can orient your world around the folks you know—from work, college, etc. "People were using us once a month as a reference site, and when they'd come, they'd spend two or three minutes," says Ziggs CEO, Tim DeMello. "Now they're spending 10 times as much time. We want to offer daily utility."

Unfortunately, daily utility is the fool's gold of the professional Web. Most people are not going to reinvent their whole routine to match someone else's business model, which makes Ziggs more interesting for its parts than its whole. Take Elizabeth Yekhtikian, a PR professional in Boston who uses Ziggs to prospect for new clients. "If I have an idea for a new business, I'll invite them into this professional environment for a chat," she says. Ziggs also allows you to send someone a cup of coffee (not instant coffee: a Starbucks gift card). But if no one you know is on the service, are you really going to invite people to join just to swap java?

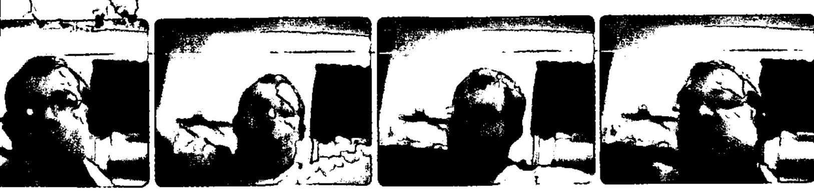
Moreover, having someone's contact information doesn't make him or her a colleague. "How does one extract strength from such weak ties?" asks Hans Gieskes, CEO of H3.com, a service that tries to bolster those ties with cash incentives when people recommend others for jobs.

As an experiment, I imported 1,200 contacts into LinkedIn. Of those, about 350 were already members. I contacted all of them and asked them to connect. More than 230 have done so. But more interesting was the full gamut of responses to my request. It ranged from "Who are you, again?" to being thrilled to reconnect. Many people, justifiably, were protective of their contacts. "At some point, building a network just becomes an end in itself," was a recurring refrain, something I was clearly guilty of. Those folks understand LinkedIn's greatest value, and its greatest flaw: Let one pushy semi-outsider into your network, and you've polluted it.

Is there a way to make this evolving professional Web work for you? LinkedIn is certainly useful for tracking your most trusted colleagues. But "use it for high-value items only," counsels Mikolaj Jan Piskorski, assistant professor at Harvard Business School, who has been studying social networks since 2003. That means: It ain't an everyday tool.

And for all those other people you've met professionally—those you're not quite ready to have in your network yet—consider the sneaky power of Web 2.0: Google Alerts, Flickr photo streams, del.icio.us news-article feeds, and blog posts can quietly keep you up to date on what they're up to. Over time, you can casually ping them with good quarterly reports and other news until you earn the trust that a LinkedIn connection just presumes. Only then will the people, and not the connection, be what's most important. FC

Illustration by Shout



<*>

ONLINE EXTRAS:
How PodZinger's speech recognition and video technologies work. Go to **fastcompany.com/keyword/115podzinger**

their brand message, then who cares?" As Laats sees it, this way, everyone stands to benefit from the video boom: The copyright holders, the pirates, the fans, and PodZinger, which would skim a few cents off the top.

The man behind PodZinger's speech recognition is BBN chief scientist John Makhoul, who is originally from Lebanon and received a PhD in electrical engineering from MIT. Back in the 1970s, Makhoul and his team started with 50 words, mostly numbers. It took a decade before a computer could string these 50 words together, deciding that a word was, given its context and phonetic pronunciation, the mot juste. Now Makhoul has developed a tool that helps intelligence analysts scour foreign television broadcasts in Chinese, Arabic, and Spanish and translate them into English. The software can even identify a speaker's unique speech characteristics so that, for example, Osama bin Laden tapes aired on Al Jazeera can be instantly tagged. Of course, it's not perfect. Depending on the speaker's accent, "Iraq" can end up "a rock," "in person" can be rendered "in prison," and "how to light for portraiture" can become "how to light for torture."

PodZinger says it's aiming for 90% accuracy in a few years. In the meantime, its basic plan "is a good one, an ingredient in an as-yet-unbaked economic cake," says John Battelle, author of *The Search* and chairman of Federated Media, a blog-publishing company based in California. "Everyone in the movie and television business wants an iTunes to happen but doesn't want Steve Jobs to control it." PodZinger offers "a new way to break-dance," Battelle says.

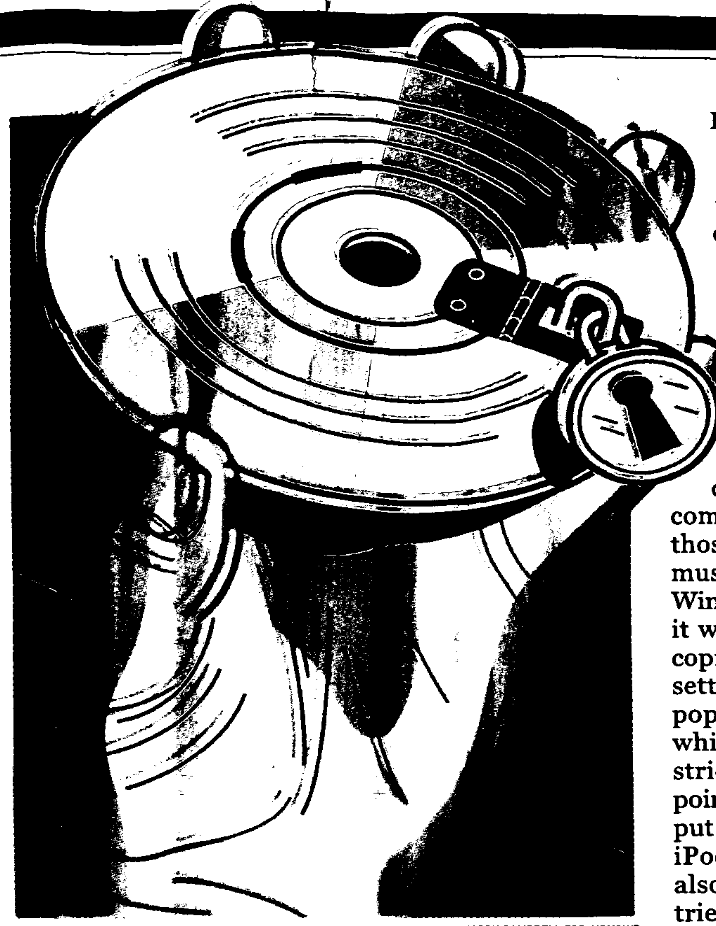
PodZinger has not yet signed up a major entertainment industry content partner—a Universal or Viacom—to try out this scheme, although it has a number of lesser-known customers. Eventually, though, the studios and networks will have to confront the wildfire proliferation of Web video. More than 110 million U.S. Internet users streamed almost 7 billion videos in August 2006, according to comScore. It's exploding not just at YouTube and TMZ, but also on news sites such as MarketWatch and the online editions of *The New York Times*, *The Washington Post*, and *The Wall Street Journal*. Bloggers often double as "vloggers," MySpacers shoot and edit their own movie podcasts, and Dabble encourages its Dabblers to collect and organize their favorite flicks, which they can store online.

No one's going to control all that. But we can make sense of it. And smart companies might just profit from it. FC

Putting A Lock On CDs

New antipiracy software affects listening options

By John R. Quain



HARRY CAMPBELL FOR USN&WR

What could be easier? Pop a CD into any player and out pours the music. But those carefree days may be coming to an end—especially if you're accustomed to making digital copies of those disks for friends and family.

Record companies, frantic about piracy and the sharing of music via the Internet, have been testing ways to prevent tunes from being copied limitlessly by adding protective software to a handful of releases. The reviews have been mixed. Some consumers have complained that copy-protected disks don't play properly; others have carped when they discovered they couldn't make duplicates of the CDs they bought.

The major record labels, including Sony BMG and EMI, are nevertheless starting to use these tactics on a more widespread basis. Among the new copy-protected disks are *In Your Honor* from the Foo Fighters and *Young, Fly & Flashy Vol. 1* from Jermaine Dupri. I tried out half a dozen new releases to see how the new technology would affect their playability.

Complicated copying. The Foo Fighters disk bears a label warning buyers it's "protected against unauthorized duplication." The disk played without incident in six different CD and DVD players. However, when I inserted it into a PC, I had to install software and accept a licensing agreement only a lawyer could understand before I could even play it. Then things got complicated.

The protection software allowed me to copy songs onto my Windows XP computer and then copy those files to a portable music player that reads Windows Media files. But it wouldn't let me make copies at the best quality setting nor copies in the popular MP3 format, which has no copy restrictions. Most disappointing of all: I could not put song files on an Apple iPod. The CD's software also didn't warn that if I tried to use another program to record the tunes to a blank CD, the music probably wouldn't play properly. This oversight caused me to waste some blank CDs.

Jermaine Dupri's new disk presented a different array of restrictions. The label indicates that songs can be copied to a Windows PC, then transferred to a portable player that uses protected Windows Media files or copied to a CD up to three times. Unfortunately, I discovered that the Dupri disk would not play on one of my CD players. On a PC, the CD's piracy protection worked in much the same fashion as the Foo Fighters': The only way to make a CD copy of *Young, Fly & Flashy* is to use the software that comes on the disk, and even these legitimate copies would not play in some devices.

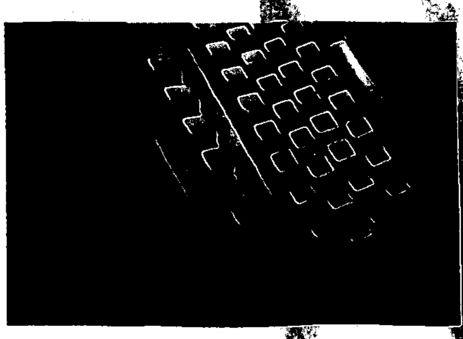
Such irritations drove me to seek a solution, and within minutes I completely defeated the defenses on both disks just by changing a single computer security setting. Record company executives admit that the idea is not to absolutely stop all copying—an impossible goal—but to create a "speed bump" that discourages people from making copies for their 100 closest friends.

These speed bumps may prove to be a stop sign for one important group: the owners of more than 20 million iPods, which are incompatible with the antipiracy software. Already in love with just buying single songs at iTunes, they'll have one more reason to tune out CDs. ●

TRY IT OUT

No Point in Peeking at This Keyboard

Take away a kid's training wheels, and he'll learn to ride his bike. But can the same tough-love approach work with learning to type on a keyboard correctly? The all-black **Das Keyboard** ($80 at *www.Daskeyboard.com*) has no markings on any key, a design that forces users to focus on the screen to improve efficiency. And its sinister-chic look beats that drab-beige keyboard sitting on your desk, too.



The Das can be a helpful learning tool or an exercise in frustration. I kept my old keyboard on the floor as a cheat sheet for the first few hours, but eventually I learned to keep my eyes on the screen. Think of it this way: Mastering the Das is as cool as riding a bike with no hands. *–Joshua Davidovich*

JIM LO SCALZO FOR USN&WR

You deserve a factual look at . . .

Peace in the Holy Land

Does Israel's "intransigence" stand in its way?

Many hope and believe that at long last peace in the Holy Land may be at hand. And that if it were not for Israel's intransigence, for its unwillingness to make "concessions," peace could have been attained long ago.

What are the facts?

Endlessly repeated myths. The myth that Israel's "occupation of Arab lands" is the root cause of the conflict is just that – a myth! Arabs have been slaughtering Jews long before the "occupation," long before the creation of the State of Israel in 1948. In 1929, for instance, Arabs killed 133 Jews and wounded 399 in Hebron. Those who were not killed fled, making the city, where Jews had lived for centuries, *judenrein*. The Mufti of Jerusalem met in 1941 with Adolf Hitler and declared his kinship with Nazi Germany because "we have the same enemy as Germany, namely the Jews."

Palestine, which incorporated what is now the Kingdom of Jordan, had been part of the Ottoman (Turkish) Empire for centuries. After World War I, Britain was given the Mandate over Palestine, which, in accordance with the Balfour Declaration, was to be the homeland for the Jewish people. This was formalized by the League of Nations and by the 52 nations that comprised it. In 1922, in violation of its Mandate, the British severed all the lands east of the Jordan River – 80 per cent of the Mandate – and gave it to the Arabs who, under the Hashemite rulers, created the Kingdom of Jordan. The Jews acquiesced to this betrayal. Britain finally relinquished its Mandate in 1947 and turned its responsibility over to the United Nations. They came up with a partition plan, by which the Arab sector was to be a contiguous land mass and the Jewish sector three discontiguous pieces. Jerusalem, located in the very center of the Arab sector, was to be "internationalized." Most of the Jewish sector was the desolate Negev desert. The Jews accepted this plan. But the Arabs rejected it out of hand and invaded the nascent Jewish state with the armies of six nations. It cost thousands of lives and caused over 650,000 Arabs to flee. Had the Arabs compromised, they would now have had their state since 1948.

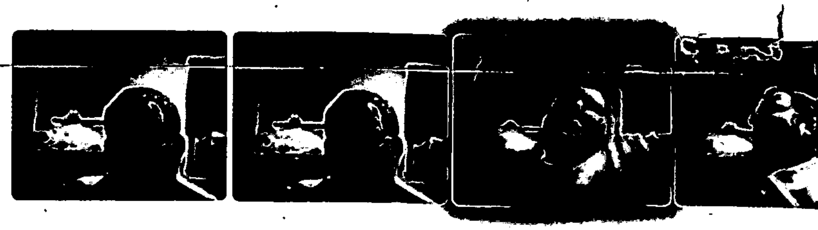
Unending Arab aggression. In the Six-Day War of 1967, Israel again defeated the combined Arab might and remained in possession and administration of the Golan Heights, of Gaza, of Judea/Samaria (the "West Bank"), of the Gaza Strip and of the entire city of Jerusalem. Israel had no intention of staying in possession of these territories. It waited for the Arabs to make proposals for peace, but that was not forthcoming. On the contrary, the Arab League met at Khartoum and promulgated their "three no's": no peace with Israel, no negotiation with Israel, and no recognition of Israel.

On Yom Kippur of 1971, Egypt and Syria once again attacked Israel. And again, the heroic people of Israel defeated the combined Arab armies and drove across the Suez Canal and to within miles of Cairo. In the aftermath of that war, Egypt's president Anwar Sadat came to Jerusalem and spoke to the Knesset, Israel's parliament. He offered a peace treaty, but imposed very tough conditions, among others, the return of the entire Sinai, with the cities that Israel had built; the return of the oil fields that Israel had developed (and which would have made it energy-independent for the foreseeable future); and relinquishing the strategic mountain passes and early warning systems that protected Israel against any future attack. It was the first time in recorded history that the vanquished imposed conditions on the victor. In what was obviously a major act of folly, and once again in its incessant quest for peace, Israel agreed to recognize the murderous PLO, invited it back into Palestine from its exile in Tunis and signed the Oslo Accord, by which governmental authority was to be bestowed on the Palestinians. But instead of accepting the outstretched hand of peace, the Palestinians launched their "intifadas," which have cost thousands of lives and which have left the Palestinians impoverished and with their economy in shambles.

> "Arabs...are the cause for this unending war. Unless and until that mindset changes, things will not improve."

The above is a mere outline of the "peace process." In 2000, under the stewardship of President Clinton, Israeli Prime Minister Ehud Barak made unprecedented concessions for the sake of peace: 98 per cent of the land that the Palestinians requested, control over most areas of eastern Jerusalem, and authority over the Temple Mount. To the dismay of Clinton, Arafat curtly rejected this dramatic offer, under the pretext that Israel would not accept the "return of the refugees." That would have spelled the end of Israel as a Jewish state.

Israel's "intransigence?" No way! At every turn in this almost 100-year strife, Israel has offered compromises and concessions. The current folly, withdrawing from Gaza, is the latest example of that. Arabs, whose almost exclusive concern is the destruction of Israel, are the cause for this ongoing bloodletting and this unending war. Unless and until that mindset changes, things will not improve. But such a change of mindset does not appear on the horizon.

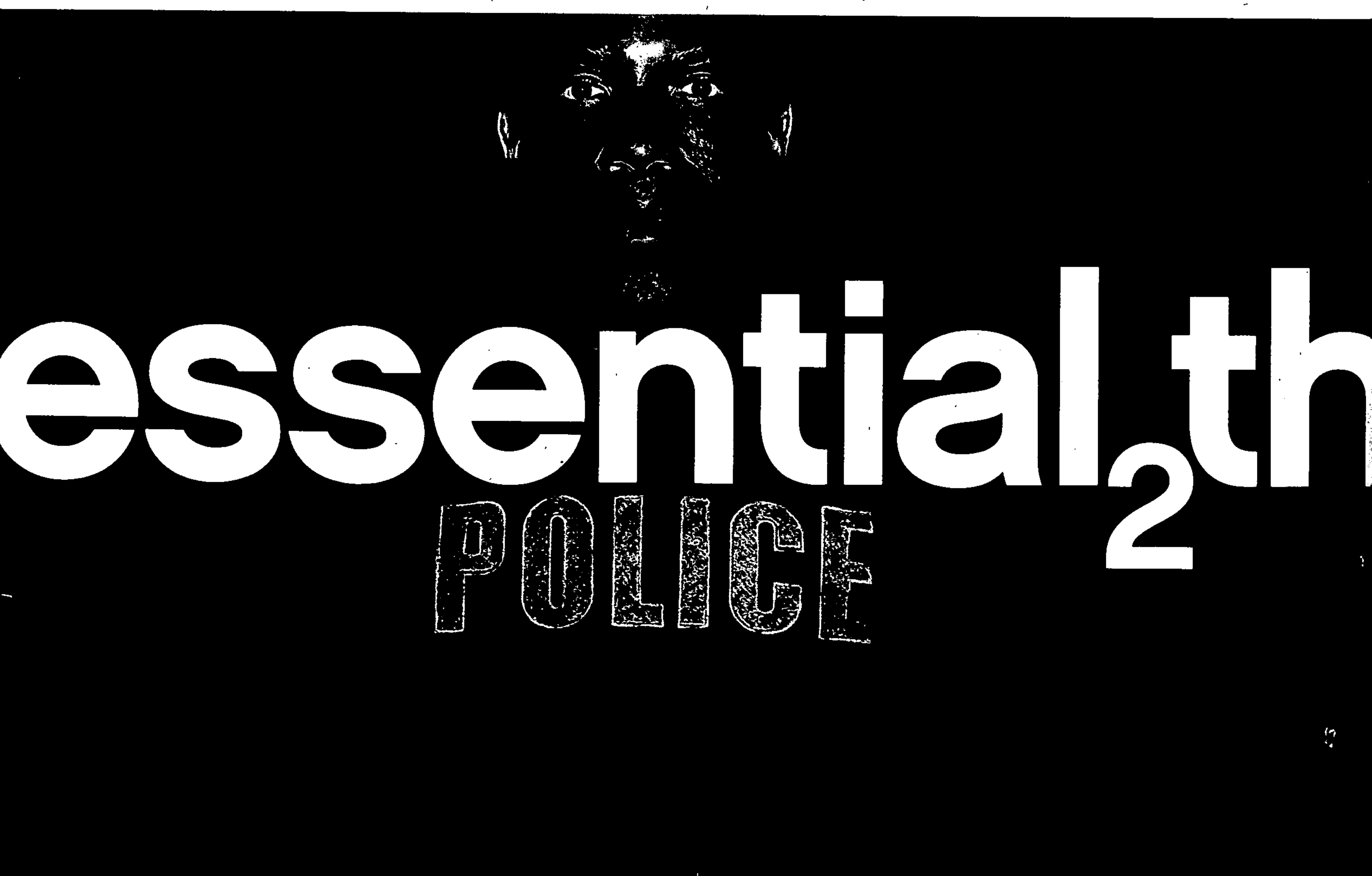


At the core of PodZinger's proposed solution is video search, a problem it has largely cracked. (Other upstarts such as Blinkx have too, though they tackle it from different angles.) Harnessing 30 years' worth of government-funded R&D in speech recognition—the company is a spin-off of BBN Technologies, a high-tech military contractor that helped create ARPANET, forerunner of the Internet—PodZinger spiders the Web looking for videos and dissects RSS feeds for updates. When it finds a match, it uses voice recognition (juiced by algorithms known as "hidden Markov models" that bet on the probability of a word given its pronunciation and grammatical context) to create a rough transcript of the audio, then classifies the content by topic.

That's vastly different from Google and Yahoo's approach. They simply scan a video's metatags, the words that describe a video file. Although PodZinger's transcripts are currently only 70% accurate, its approach has the potential to transform the search business. For users, PodZinger's Web site offers the ability—finally—to plug in a search term, then skim the results as they would text; click on a word, and they're taken to that exact place in the video. Of course, with billions of Web pages, PodZinger hasn't come close to ferreting out everywhere videos lurk, but its reach is growing: On YouTube alone, PodZinger transcribes some 20,000 new posts each day. For advertisers (there are only a few at this early stage), the company has copied a page out of Google's playbook, offering the video equivalent of keyword ads based on what users search for.

But the real revolution might be for the copyright holder: PodZinger's spiders will in time be able to track down specific video content on command—a clip from last night's *Daily Show*, for example, or everything that belongs to Comedy Central—and insert an ad into each segment, no matter where it is playing. In other words, PodZinger could force each and every YouTuber to watch a short commercial if they want to see the clip they asked for, then tally the number of times it's played so the advertiser could pay the copyright holder directly. And what if the person posting the material doesn't want the ad? Tough luck; it's not his video.

In essence, PodZinger wants to make allies of what are now two opposing parties. "Bootlegging is going to happen anyway," says Alex Laats, PodZinger's CEO. "Why not make money in a reasonable way? If people can get paid for their content, and you can track when it is viewed, and advertisements can deliver



SEARCH AND CO-OPT

PodZinger has a way out of the Web-video conundrum: Make piracy pay.

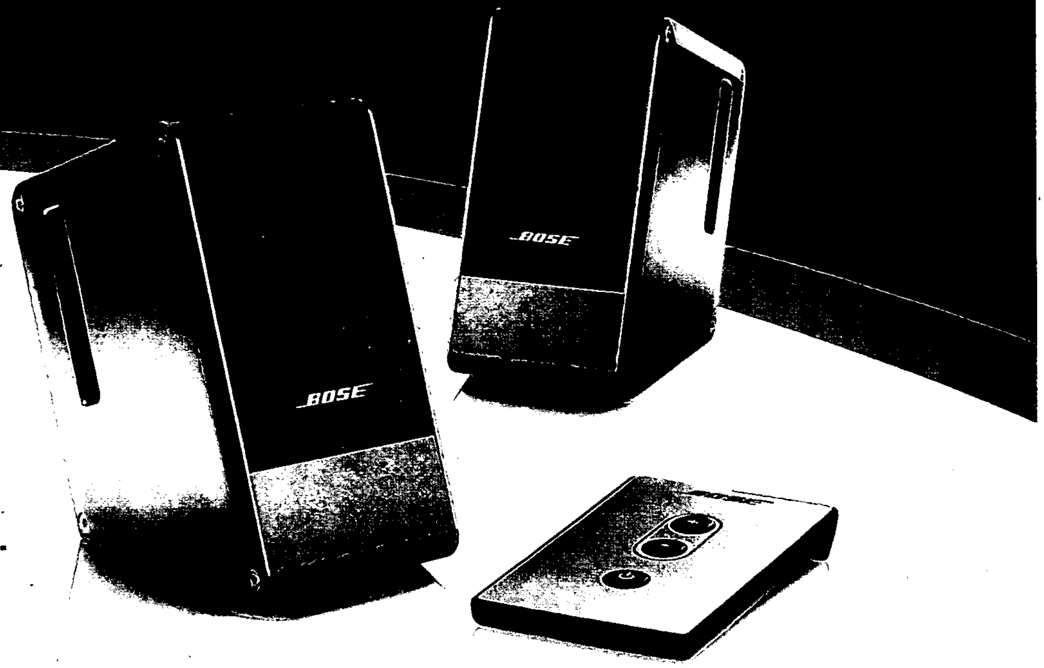
By Adam L. Penenberg

THERE ARE TWO WAYS TO CONFRONT THE PIRATING of copyrighted material on the Web. One, pioneered by the music industry and embraced now by Hollywood, throws lawyers in the path of digital progress. Every month, NBC Universal demands that YouTube remove snippets from some of the network's most popular shows. Likewise, Viacom, whose cable properties include MTV and Comedy Central, recently filed a $1 billion lawsuit against YouTube for "massive copyright infringement." That may keep the lawyers fat and happy, but it doesn't accomplish much else.

The other approach, conceived by PodZinger, a video-search startup in Cambridge, Massachusetts, is this: Co-opt the pirates. Unleash them to spread your media virally, and let PodZinger track viewership—and kick back ad revenue. That makes "piracy" profitable to the copyright holder.

Photo Illustration by Michael Elins

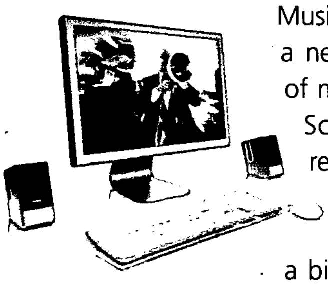
Presenting the Bose® Computer MusicMonitor®



Performance you may never have thought possible from only two speakers this small.

The Bose Computer MusicMonitor® was developed for the growing number of people who use their computers for personal entertainment, and want accurate sound reproduction from a small and elegant system. According to Rich Warren of the *News-Gazette,* "If you want a pair of exceptionally small speakers with incredibly big sound for any purpose, listen no further."

Our best two-piece computer sound system. Until now, the rich low tones necessary for high-quality desktop sound have come only from large speakers or three-piece systems with a bass module. The MusicMonitor® establishes for us a new threshold in the accuracy of music reproduction. As Arlen Schweiger of *Electronic House* reports, "The folks at Bose really know how to shrink a product while maintaining a big sound." It is the first time we have been able to produce sound quality like this with only two such small enclosures containing all the electronics and speakers.

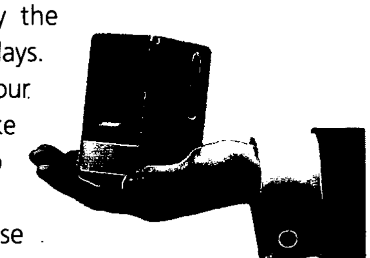


Proprietary Bose technologies. The unexpected sound quality is made possible through a combination of unique Bose technologies, including our dual internal opposing passive radiators. This invention allows the system to deliver faithful low note reproduction and musical accuracy, despite its small size. Dennis Barker says in *Digital TV DesignLine* that "after a listening test, I was quite impressed with this tiny pair of speakers."

Enjoy all your digital entertainment with the richness it deserves. The contemporary metal design and small size make the MusicMonitor® system a welcome addition to your desk or workspace. Digital music files sound more lifelike than they would with ordinary computer speakers this size. Downloaded videos sound better, too. And setup is simple. It should take you about as long to connect this system as it takes to remove it from the box.

FREE shipping with your order.

Listen risk free for 30 days. The best way to judge the performance of any sound system is in the unique acoustics of the environment where you'll use it. That's why we invite you to try the MusicMonitor® risk free for 30 days. When you call, ask about using your own major credit card to make **12 easy payments,** with no interest charges from Bose.* Then listen, and discover why Bose is the most respected name in sound.



1-800-407-2673, ext. CH301 | www.Bose.com/CMM

BOSE® Better sound through research®

that can read the marker, and the company keeps tight control over its readers and materials, delivering only the amount of marker needed for any production run. That has caused some grumbling in the security industry because it forces manufacturers to use Kodak's scanners, which can be employed at any point in the supply chain to ensure a product's authenticity.

Kodak has more than 200 competitors peddling security inks, holograms, and RFID sensors, so to distinguish itself, the company offers custom tailoring, studying a client's production process to determine what makes the most sense. "We work with companies on everything from setting up a brand protection office to doing an audit of the vendors that do their printing," Powell says.

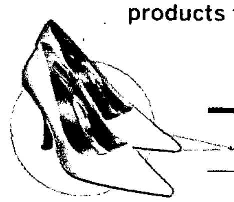
For clients, the extensive hand-holding seems to overcome any concerns about Kodak's proprietary readers. Liz Claiborne Cosmetics worked with Kodak for more than 18 months to reduce product diversion (bottles of perfume meant for department stores were mysteriously ending up at unauthorized retailers). "As a brand, you are always trying to stay one step ahead," says Larry Tronco, VP of operations for Liz Claiborne Cosmetics.

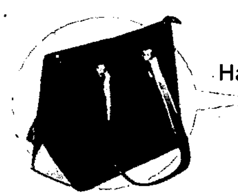
Unlike RFID tags, which can require a cumbersome and expensive extra step in the production process, Kodak's Traceless has no up-front fee and charges based on volume. "If you're manufacturing billions of products, the cost is fractions of a penny per," Powell says. "If it's a limited item, like a Napa wine, Traceless adds 5 to 10 cents."

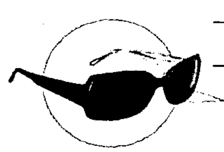
Kodak's willingness to talk openly about the larger issue and its solution has also differentiated it from its competitors. "Companies fear that if they talk about the problem, they'll inadvertently tip off counterfeiters," says Mark Roberti, editor of *RFID Journal*, which covers an industry that does not want to be covered. Kodak believes talk is exactly what's needed. "Counterfeiters look for low-hanging fruit," Powell says. "They may not bother with a product whose technology they'd have to crack." That message is a spotlight on a shadowy world. FC

THE PRODUCTS ARE FAKE, BUT THE NUMBERS ARE REAL

The U.S. government made more than **13,000** seizures of counterfeit goods in 2007, **1,000** less than in 2006. But the value of those products totaled **$196 million,** a **27%** increase from 2006.

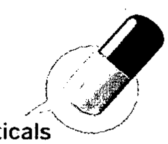


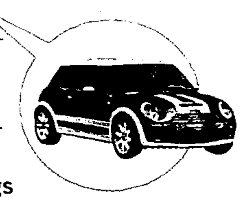




TOP PRODUCTS SEIZED IN 2007	
Footwear	40%
Apparel	14%
Consumer electronics	8%
Handbags, wallets, backpacks	7%
Watches and watch parts	7%
Pharmaceuticals	6%
Computers	5%
Media	4%
Sunglasses and parts	2%

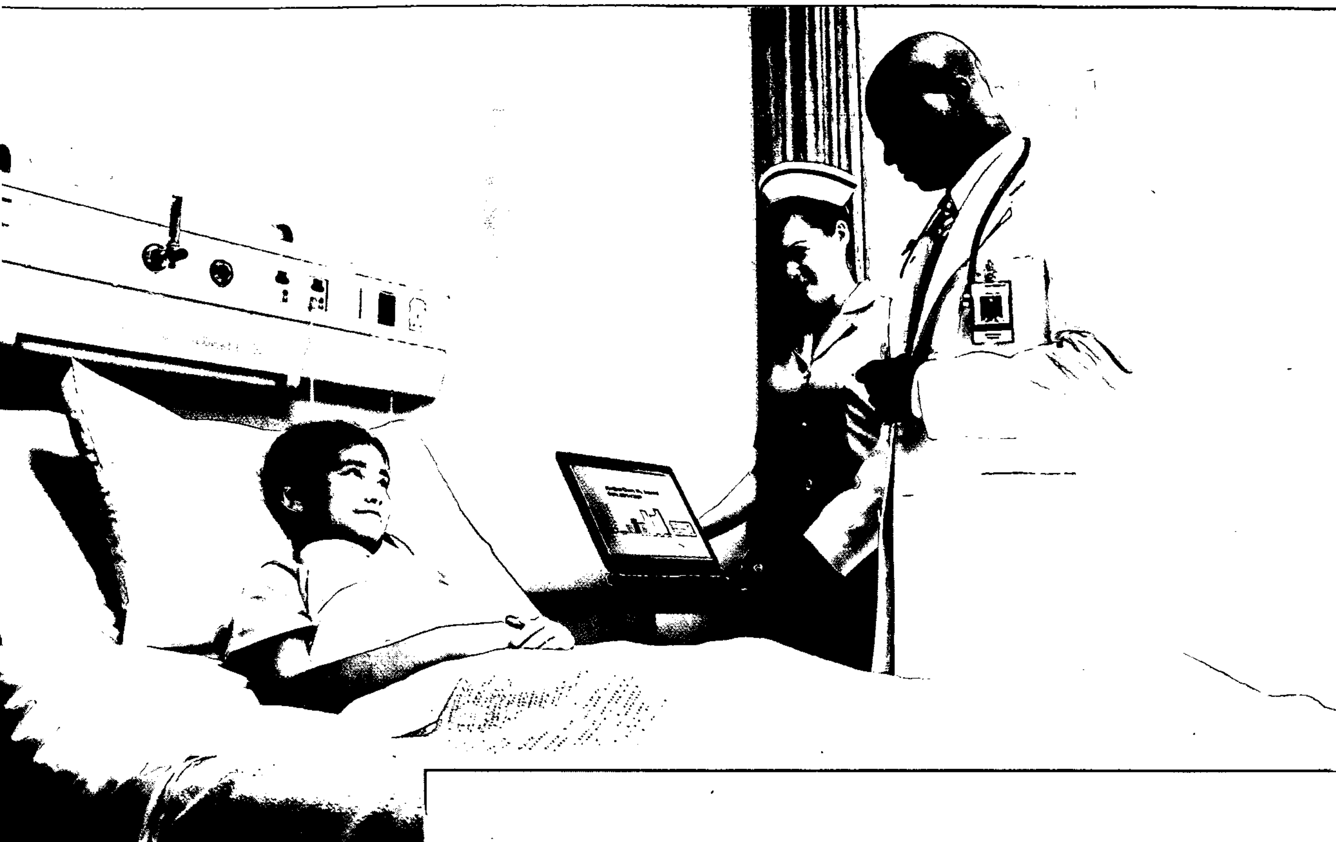
WHAT KNOCKOFFS COST MAJOR INDUSTRIES, ANNUALLY	
$34 BILLION	Software
$32 BILLION	Pharmaceuticals
$12 BILLION	Apparel and footwear
$12 BILLION	Autos
$6.1 BILLION	Motion pictures
$4.6 BILLION	Artistic recordings





Sources: U.S. Chamber of Commerce; U.S. Customs and Border Protection Office of International Trade

Photographs: Alex Cao/Getty Images (shoes); Lauren Nicole/Getty Images (pill); jbcn/Alamy (handbag); Elena Elisseeva/Alamy (clothes); Thomas



KODAK'S MAGIC MARKER

The legendary company uses its ink expertise to help American businesses stop losing $250 billion annually to counterfeiting. By Cora Daniels

"WHEN YOU BUY COUNTERFEIT goods, you support child labor, you support drug trafficking, and you cost your city $1 billion in lost tax revenue," blared the iconic Kodak Jumbotron in New York's Times Square this summer. It was a sign that Eastman Kodak was bringing a proactive, in-your-face attitude to its entry into the anticounterfeiting market, a field where business is usually conducted in whispers.

Kodak's Traceless technology addresses a problem that globalization is only going to make worse. "We're not going back to the days of one-room factories that companies can keep complete control over," says Ben Jones, a director of the Global Secure Summit, an annual brand-protection event. Counterfeiting costs global business approximately $700 billion annually (footwear and pharmaceuticals, sure, but also toothpaste, condoms, and even corn feed). There are also liability issues—2% of the 26 million airline parts installed each year are fake, according to the FAA—as well as the less-measurable costs of additional customer service and brand erosion.

Traceless is a clever attempt to remedy those woes, relying on Kodak's roots as a photography company. "The underlying technologies of the film business are materials science and imaging," says Jeffrey W. Hayzlett, CMO of Kodak's graphic communications group. "We're creating new opportunities based on our knowledge." Two-thirds of Kodak's $10 billion annual revenue is now from digital products, half of which didn't exist four years ago, and Traceless is emblematic of the company's new approach.

Kodak is an accidental innovator in the world of fighting fakes. Originally, the company was trying to figure out how to secure documents such as passports and visas that use Kodak ink products. Then they realized, "Everything has some printing on it," says Steven J. Powell, GM and director of Kodak's security solutions, so the technique could be used on virtually any product in any industry. Kodak also has personal experience: Its digital-camera batteries have been knocked off. (Up to 60% of batteries sold worldwide are counterfeits.)

The Traceless technology uses an odorless, colorless, virtually invisible powder infused into the ink. "You can't find it with an electron microscope," Hayzlett boasts. The marker can be put into almost any part of a product's packaging: paper, plastic, threads, even the adhesive behind a label. Kodak's proprietary reader is the only device

PHOTOGRAPH BY MALCOLM BROWN